

## Gaumond, Leon

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**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Tuesday, September 26, 2017 12:16 PM  
**To:** 'cbirnb@gmail.com'  
**Cc:** Houston, Christopher; Gillespie, Doug; Boshart, Harvey; johnfmcdonald3@hotmail.com; Kelley, Susan  
**Subject:** RE: 133 Boston Post Road Public Hearing

Claudia,

Boston Properties representatives met with the Finance Committee last year to discuss the fiscal impacts of this project. As a result of that meeting and further conversations with the School Department, their analysis was revised. Both the original report and the update are posted on the Town's website: <http://www.weston.org/1181/40B-in-Partnership>

I hope this is helpful.

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
[Facebook: Town of Weston, MA](#)  
[Twitter: @Town\\_of\\_Weston](#)

*Please be aware that the Secretary of State's office has determined that most emails are public records and, therefore, may not be confidential.*

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**From:** Selectmen  
**Sent:** Tuesday, September 26, 2017 11:15 AM  
**To:** Gillespie, Doug; Boshart, Harvey; Houston, Christopher  
**Cc:** VanderClock, Donna  
**Subject:** FW: 133 Boston Post Road Public Hearing

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**From:** Claudia Birnbaum [<mailto:cbirnb@gmail.com>]  
**Sent:** Tuesday, September 26, 2017 10:39 AM  
**To:** Aiu, Imaikalani; Selectmen; Kelley, Susan  
**Cc:** [johnsmcdonald3@hotmail.com](mailto:johnsmcdonald3@hotmail.com)  
**Subject:** 133 Boston Post Road Public Hearing

To the Planning Board, Board of Selectmen, and Finance Committee:

I urge you to ask the Finance Committee to review and report to residents at or before the Special Town Meeting on the fiscal impacts of this project. This project is unique in both its scale, increasing our housing stock by close to 10%, and character, introducing rental units with transient residents into an existing tax base of single family homes. Based on the project documents available on line, Town Meeting voters lack any way of making an informed judgment about its impact on future town budgets and tax rates, and specifically whether projected taxes on the project will fully cover the town's projected new costs associated with it. While such considerations may not be relevant to the ZBA's

Comprehensive Permit process, they are critical to a town meeting vote to expand and intensify the commercial portion of the project, because the developer has stated it will not proceed with the entire project without town support.

As a former member of the School Committee, I am particularly concerned about the impact of such a large rental project on future school budgets. There is no reason to believe new students will be limited each year to those grades and schools with spare capacity or will not need special education services. M.G.L. Ch. 40B may require the state to compensate the town for the educational costs for students in subsidized units, and if it will do so in full, the question still applies to the 75% of the units which will rent at a market rate. I am concerned that taxes on the project as a whole simply won't cover all of the town's expenses attributable to them, especially increases in the school budget. Boston Properties was quite open in its public presentations last year about its intention to maximize the number of two and three bedroom units to appeal to families with children. They are seeking to profit directly from the reputation of Weston schools. If the likely taxes on this project do not fully fund the additional cost of school and other town services, then residents in single family houses will have to pay disproportionately higher taxes to maintain the current level of services.

Special Town Meeting will need a comprehensive analysis of costs and revenues of this project over the long term, undertaken by its own, independent Finance Committee, in order to assess the risks of future tax increases due to increased, unpredictable, and fluctuating school enrollments and demand for special education services, or other town services. Of course unpredictable financial risks are something homeowners routinely insure against individually, and, it seems to me, could be insured against here through negotiations with the developer for an escrow fund, or limited by substantially decreasing the scale of this project. Boston Properties is a large and well-established developer and far better able than a small town like Weston to mitigate these financial risks by setting aside a portion of the profits it makes from selling access to the Weston Public Schools. But such negotiations or changes must occur before a town meeting vote and should be informed by the analysis and recommendations of the Finance Committee. Sincerely, Claudia Birnbaum

Sent from Mail for Windows 10

**Gaumond, Leon**

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**From:** Selectmen <selectmen@westonmass.org>  
**Sent:** Tuesday, September 26, 2017 11:15 AM  
**To:** Gillespie, Doug; Boshart, Harvey; Houston, Christopher  
**Cc:** VanderClock, Donna  
**Subject:** FW: 133 Boston Post Road Public Hearing

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 Claudia Birnbaum

Sent from Mail for Windows 10



**Gaumond, Leon**

**From:** Elizabeth Valenta <evalenta@rhsohousing.org>  
**Sent:** Monday, September 18, 2017 4:02 PM  
**To:** Sarah Rhatigan (sarah@trilogylaw.com); KennethA. Newberg (knewberg@gmail.com); James Polando; Donna; Doug Gillespie; j cheine; Hugh Jones; 'naturalbuz@aol.com' (naturalbuz@aol.com); Elizabeth Rust; Thalia Price(naturalbuz@comcast.net); susan habergmail; Shirley Dolins; Tom Timko; Gerri Scoll; Leslie Glynn; Planning Board Town of Weston  
**Subject:** Agenda for Tomorrow's HT meeting - 7:30 AM  
**Attachments:** CPC Funding Request\_Warren Avenue \_09132017 final rev2.pdf; WAHT Historical Commission and Planning Board letter 11Sept2017 final.pdf; HTagenda 19SEPT17 final.docx; Criteria for Affordable HousingProposals for CPC\_18Sept17\_draft.docx; WAHT response to 24Aug17 Letter from PB 11Sept2017 final.pdf

Hello Trustees -

Please see attached agenda for tomorrows HT meeting.

*Note that the Housing Trust Training sponsored by MHP has been rescheduled for Thursday October 5th, 2017. See the notice below.*

I have also attached the following:

- CPC Housing Criteria
- CPC submission for CPA funds for Warren Ave.
- Warren Avenue letter submitted to the Historic Commission
- Letters submitted to the Planning Board re: PB Memo to HT

**Other meetings of interest:**

Planning Board Public Hearing - **September 26, 2017 @ 7:30 p.m** - Boston Properties Project. (NOTE CHANGE OF DATE)

Developer has set up a website for public information and comment <https://courbanize.com/projects/133-boston-post-road/information>

Town Website for the project can be found here - <http://www.weston.org/1208/Current-Proposals>

Wednesday, October 4<sup>th</sup>, 7:30 p.m. - Wayland Housing Trust has asked if Weston HT members could come to their meeting to talk about the projects the Trust is working on. Sarah will provide more information at the next meeting.

MHP Affordable Housing Training - September 22, 2017. Follow this link for more information and to register. <http://www.mhp.net/community/events>

----- Forwarded message -----

**From:** MHP <[sgoehring@mhp.net](mailto:sgoehring@mhp.net)>  
**Date:** Tue, Sep 12, 2017 at 7:01 AM  
**Subject:** Register now for trust training on Oct. 5 -- RESCHEDULED  
**To:** [evalenta@rhsohousing.org](mailto:evalenta@rhsohousing.org)



☐

# Affordable Housing Trust Training

**Thursday, Oct. 5, 2017**  
**The Stevens Estate at Osgood Hill**  
**723 Osgood Street**  
**North Andover, MA 01845**

**This workshop was previously scheduled for Sept. 22. We apologize for any inconvenience.**

Join the Massachusetts Housing Partnership (MHP) and Merrimack Valley Planning Commission (MVPC) for a day-long training geared towards trustees and staff of existing affordable housing trusts.

The training will be held on Thursday, October 5 from 9:30 a.m. to 3:30 p.m. at The Stevens Estate in North Andover. Registration begins at 9 a.m.

## **Agenda/topics**

The goal of this training is to bring together trustees and staff to:

- Provide an overview of trust work across the state
- Review eligible trust activities and legal considerations
- Discuss strategies for building relationships and establishing credibility

## **Registration details**

Continental breakfast and lunch will be provided. Cost to attend is \$25.

REGISTER NOW

For more information, contact MHP's Shelly Goehring at 857-317-8525 or sgoehring@mhp.net.

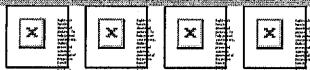
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This event is sponsored by the Massachusetts Housing Partnership (MHP) and the Merrimack Valley Planning Commission (MVPC).

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*Created with support from The Kuehn Charitable Foundation*

☐



Massachusetts Housing Partnership | 160 Federal Street, Boston, MA 02110

[Unsubscribe](#) [evalenta@rhsousing.org](mailto:evalenta@rhsousing.org)

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Sent by [sgoehring@mhp.net](mailto:sgoehring@mhp.net) in collaboration with



Try it free today

--  
Elizabeth Valenta  
Regional Housing Service Office  
141 Keyes Road  
Concord MA 01742  
Email: [evalenta@RHSOhousing.org](mailto:evalenta@RHSOhousing.org)

Office Phone: [978-287-1090](tel:978-287-1090)

## Weston Affordable Housing Trust

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September 11, 2017

To: Weston Planning Board (aiu.i@westonmass.org)  
selectmen@westonmass.org

Re: Response to Planning Board Memo Requesting Information Relating to MBL 40B, Subsidized Housing Inventory and Housing Production Plan

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We members of the Weston Affordable Housing Trust first want to express our appreciation for the Planning Board's work in assisting the Town of Weston in evaluating the proposed affordable housing rental development and additional office building at 133 Boston Post Road. The Housing Trust has submitted letters of conditional support and recommendations with regard to the affordable housing rental development at 133 Boston Post Road, after having met with Boston Properties on several occasions at earlier stages of their planning process. With respect to the affordable housing aspects of their proposal only, the Housing Trust members continue to believe that a sizable development at this site could be of great benefit, both in terms of providing the much needed affordable and market-rate apartments to our Town, and also in terms of Weston reaching its goal of 10% of its housing stock being "affordable" as defined under M.G.L. c.40B, thereby providing us with the ability to control other c.40B development pressures throughout our Town.

The Housing Trust remains hopeful that the Town is able to continue to work cooperatively with Boston Properties to come to an agreement on a proposal that will meet the Town's significant need for affordable rental housing, while minimizing adverse impacts to the Town.

In response to your memo dated August 24, 2017, we have done our best to answer your questions below. Please note that in responding here, the Housing Trust is relying upon its members' understanding of c.40B and its regulations, with assistance from our administrator, but without consulting an attorney or outside specialists on these matters.

Weston Housing Production Plan Steering Committee (November 2015). *Town of Weston Housing Production Plan*. Weston: Town of Weston.

DHCD Massachusetts (December 2014). G.L. C.40B COMPREHENSIVE PERMIT *Guidelines*. Boston: DHCD Massachusetts.

- 1. PB QUESTION: Age Restricted and Assisted Living Developments. A number of residents asked if the project could be an age restricted or assisted living facility. Such a development would reduce traffic impacts and meet a need documented in the HPP. However are such developments restricted under Chapter 40B or the associated rules (760 CMR 58) in any way by the State? Are units in such projects credited to the SHI to the same level as units in a conventional project, particularly if all the units are rental do all units then count in the SHI?**

Chapter 40B and its regulations, including the Mass. Department of Housing and Community Development (DHCD)'s Guidelines, allow for the possibility of age-restricted and assisted living facilities which meet the c.40B requirements for affordable housing developments qualifying as "affordable units" on the Town's Subsidized Housing Inventory (SHI), but only if DHCD determines that the Town has established a local need for such housing and marketability of the units. Refer to DHCD Guidelines, Section VI.A.2. Consistency with Local Need (DHCD Guidelines, 2014).

Referring to Weston's current Housing Production Plan (Adopted in November 2015) (the HPP), Weston has documented a need for more senior affordable housing, while also documenting the need for more affordable starter housing opportunities to attract young adults, including families. The HPP identifies senior rental housing as a priority need with production goal of 40% of new housing constructed to be for seniors (HPP, 2015). With regard to the question of marketability, this usually is determined by the developer.

SHI Eligibility. The regulations with respect to SHI eligibility for age restricted and assisted living facilities are essentially the same as that for non-age restricted/non-assisted living, affordable rental housing; for all units in the development to be counted on the SHI if at least 25% of units are to be occupied by Income Eligible Households earning 80% or less than the area median income, or alternatively, if at least 20% of units are to be occupied by households earning 50% or less of area median income. If fewer than the required units are provided, only the affordable units will be eligible to be included on the SHI.

If the Town were to consider requesting or requiring Boston Properties to alter its housing proposal so as to be an age-restricted or assisted living facility, there are some important issues that we would like to point out:

- a) In making such determinations, the Town must be cognizant of, and compliant with state and federal Fair Housing Laws which require that a Town may not make such a determination if it will result in a disparate impact to families, or if the decision results in unintentional discrimination against families.

b) The financial viability, marketability and desirability of age-restricted and assisted living facilities is very important to consider, not only from the developer's standpoint, but from the Town's perspective as well. These types of development are underwritten differently than traditional rental properties. The developer should speak to the financial viability for these types of developments. It is also our understanding that subsidizing agencies are similarly finding it difficult to underwrite age-restricted developments. It is also our understanding that financial subsidies (in addition to the density allowed under c.40B) would be required for to make a 20-25% affordable unit - assisted living development viable.

**2. PB QUESTION: Purchasing Affordability Restrictions - It was asked if you can purchase or somehow negotiate an affordability restriction on units in an existing project and have the whole project count toward the SHI. This was proposed with large existing assisted living and senior facilities like the Wingate at Weston in mind.**

To our knowledge, the "purchasing" of affordable units in an existing rental development, and thereby adding all of the rental units within the project to the SHI, is not directly addressed in the G.L. C.40B Comprehensive Permit Guidelines. It is uncertain whether and under what conditions DHCD would count all of the units in an existing development if the 20-25% affordable unit threshold was reached. Here are some other considerations to consider. There is a limited stock of potential existing assisted living facilities in Weston, no indication or reason to believe the owners/operators of such facilities have any need or interest in such a "purchase" and its related regulatory and financial requirements. The cost to "purchase" the affordability of a unit in one of these facilities is likely to be prohibitively high, especially since assisted living tenant costs include not only room, but also "board" and care services which must be taken into consideration when calculating a tenant's affordable rent. The affordable deed restriction would be applicable to the unit in perpetuity, and therefore it would be extremely difficult to calculate an appropriate "purchase" price (subsidy) for an affordable unit in the project. Finally, in order for units be added to the SHI, the owner/operator of the facility would be required to implement an approved Affordable Fair Housing Marketing Plan (AFHMP). These could take years if not decades to implement. These considerations lead us to believe that this is not a viable or desirable option at this time

**3. PB QUESTION: What was the outcome on alternative parcels such as the St. Pope Paul XXIII Seminary, Campion Center, and Regis College etc?**

The Housing Trust continues to be interested and open to working with owners of property throughout Weston. In fact, the Town appropriated funds to the Housing Trust this May 2017 and the Housing Trust is engaged in a process to locate sites suitable for a smaller

scale homeownership program. With regard to other private properties identified in the HPP (2015), we do not have any indication of interest on the part of the owners of St. Pope Paul XXIII Seminary, Campion Center, or Regis College, but will continue with outreach efforts here and elsewhere in Town.

**4. PB QUESTION: What is the status of other HPP initiatives such as Brooks School?**

The Elderly Housing Committee who oversees Brook School is currently working with its consultants on a feasibility analysis for possible addition of elderly housing apartments as an annex to the existing buildings.

There were many sites considered during the HPP process, many of the sites were eliminated or removed from the list of potential properties due to being rendered unacceptable/unavailable for development. One such property was Burt Field, which was then removed from consideration due to a conservation restriction approved at Town Meeting in May 2017.

216-218 Boston Post Road – Weston Affordable Housing Foundation Inc. (WAHFI) project conceptual plans and feasibility studies are underway to determine how many units can be developed on the property (2-4 units).

Housing Trust – HT continues to seek a property to purchase with CPA funds for an affordable homeownership project. HT is at the early stages of considering the feasibility of two town-owned parcels that may be appropriate for housing development: 0 Wellesley Street (on the corner of Wellesley Street and Boston Post Road) and a portion of the land located on Merriam Street adjacent to the Community Gardens.

**5. PB QUESTION: Can we consider other alternative properties such as land that may have been made available by the removal of the toll gates on the Mass Turn Pike?**

Yes, we have made inquiries with the Commonwealth of Massachusetts. There is no response yet in terms of what land may become available, and note that these will likely be constrained sites on the edge of the Massachusetts Turnpike, and perhaps not suitable for housing development. The Housing Trust will continue to monitor and advise the community if there are any opportunities for development. These opportunities would no doubt arise many years down the road.

## Criteria for Affordable Housing Proposals to the Weston Community Preservation Committee

**Affordable Housing Proposals** that address as many of the following criteria as possible will receive preference:

1. Housing that includes partnership with conservation, recreation and/or historic preservation.
2. Proposals that aim to preserve existing deed restricted units through rehabilitation and restoration.
3. Creation of Affordable Housing units in Weston with preference to projects that align with Housing Production goals based on Priority Needs identified in the Weston Housing Production Plan dated November 2015, and approved by Massachusetts's Department of Housing and Community Development (DHCD).

Types of Units	Target Populations	Annual Goals	5-Year Goals
Rental Housing	Seniors (40%)	8	40
	Families (60%)	12	60
	Disabled (10% of all new units created) – handicapped accessible and /or with services	(2)	(10)
Total		20	100

4. Contribute to the overall housing production goals by creating units that will meet requirements to be eligible for inclusion on the Department of Housing and Community Development's Subsidized Housing Inventory (SHI) under G.L. c. 40B; including requirements for Affirmative Marketing.
5. Creation of Affordable Housing using cost-effective design and planning techniques as a faithful steward of community resources.
6. Creation of Affordable Housing through partnerships with community non-profits organizations.
7. Creation of Affordable Housing through multiple sources of funding where practicable.
8. Housing should be, in so far as practicable, harmonious in design, scale, setting and materials with surrounding community.



## Gaumond, Leon

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**From:** Fleming, Kara <fleming.k@westonmass.org> on behalf of webmaster <webmaster@westonmass.org>  
**Sent:** Friday, September 15, 2017 3:04 PM  
**To:** Sarah Rhatigan (sarah@trilogylaw.com); chiefyjones  
**Cc:** Gillespie, Doug; VanderClock, Donna  
**Subject:** FW: Contact the Town of Weston

From the website, see below

**Kara M. Fleming**  
Assistant to Town Manager / Public Information Officer  
Office of Town Manager & Board of Selectmen  
Town of Weston  
P.O. Box 378  
11 Town House Road  
Weston, MA 02493  
781-786-5020 781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
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[Twitter: @Town\\_of\\_Weston](#)

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**From:** noreply@civicplus.com [mailto:noreply@civicplus.com]  
**Sent:** Friday, September 15, 2017 2:39 PM  
**To:** webmaster  
**Subject:** Online Form Submittal: Contact the Town of Weston

### Contact the Town of Weston

Name	Andrew Huml
Email	<a href="mailto:andrewhuml@gmail.com">andrewhuml@gmail.com</a>
Address	61 Warren Ave, Weston, MA 02493
Phone Number	617-733-0242
Question, Comment, Suggestion	Re: Serious concerns regarding the cost, approach and impact of Warren Avenue Phase II Affordable Housing Project Dear Weston: I live at 61 Warren Avenue, directly across from 66-68 Warren Avenue. I understand the importance of Affordable Housing and I have attended countless meetings and walkthroughs since 2013. I have listened to the benefits and promises made, but this has to stop. Put simply, after four years and \$3,000,000 (approx., \$2,688,500 + \$298,500) this where we are at: 1. Only two buildings are complete after

spending \$3 million. We have spent more than the median home price in Weston (\$1,462,200 per Zillow) for two buildings (five total units). In addition, \$3 million was the budget for all three buildings, not two. The Town voted and approved this funding on Dec 1, 2014, but now significantly more funding is needed. 2. Not one "benefit" or promise to the neighborhood has been met. For example, when is the Warren Ave sidewalk going to be started? Where is the school bus turnaround? Why is the 66-68 Warren Ave building is still an eyesore after five years? I know the story and excuses, but it should be torn down at this point; not gutted and converted to housing. Another promise was that the fence and pipes stored at 66-68 Warren Ave. (directly across the street from my house) would be removed. That area would revert back to wetlands and forest as part of the entire 66-68, 71 and 74 Avenue project. Now, there are discussions about converting that space into Rail Trail parking while more funding is being requested for 66-68 Warren Affordable Housing? That is completely unacceptable. 3. Not one reasonable request has been implemented. I have personally attended meetings, attended neighborhood and individual walkthroughs, and I have presented, discussed and submitted two very reasonable written requests to the Affordable Housing Trust since 2014. These were not major requests; they related to where to place a shed and not changing the driveway location. Nothing was done, and the requests were feasible, reasonable and no cost. I asked our Committees, and the Town, to please stop asking for more from Warren Avenue; you have the five units completed and now we might have Rail Trail parking coming. Completing 66-68 Warren Avenue is not going to make any difference in getting to the 250 "affordable" units needed. Plus, it does not make sense from an economic perspective. Demo 66-68 Warren Ave, give something back to the neighborhood and turn it into permanent forest/wildlife space. For a few thousand dollars to demo, you could move on, focus on bigger projects and actually give something back to the Warren Ave neighborhood. In closing, let me explain the impact this has had on my family. Before the Affordable Housing project was ever approved, we bought 61 Warren Avenue with the hopes of building a modest addition and remodeling. Currently, two of my kids have to share a small room and my oldest has a very small room. Over the last two years, we have met with several Weston realtors and three different architects to understand the amount we should invest in our home. I have worked with and trust these individuals, and they know the town. They have said, and this is a direct quote: "Do not put a cent into your house because of what the Town of Weston is doing to Warren Avenue" Regards, Andrew Huml References/Notes: My written

letters, submitted October 28, 2014 and November 4, 2014, to the Affordable Housing Trust. Subsequently discussed with the Committee/Trust, in summary, - I requested that the 66-68 driveway not be moved so far away from the house; rather, place it where it where the original approved plans had it and where the former the gravel driveway was. My request was never met and it was paved about two weeks later. Now the driveway is clearly visible from my front steps and much closer than it was previously to the front of my house. - I requested that a 66-68 shed not be place directly in-front of my house, rather, locate it where the former garage was or look at other options. There was no willingness by the Affordable Housing Trust to change the location of the new, to-be-built shed (not an existing structure). The only reason it was not built was that the entire project ran out of funds. I also asked for screening/landscaping, but "there were no funds" (after spending \$3 million?). State goal is 10% "affordable" housing under Ch. 40B. At the Warren Ave. cost per unit, it is not even feasible to meet this goal. I estimate is will cost \$145 million, twice the Town's entire annual budget. Even in the March 27, 2017 meeting minutes, other estimates cited are \$90 million or \$83 million over 20 years. It will be very important that voters understand the total cost of Warren Ave. At the cost of Warren Ave, the Town could have easily bought move-in ready houses. Do something right for the neighborhood, please

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**Gaumond, Leon**

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**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Thursday, September 14, 2017 4:59 PM  
**To:** Gillespie, Doug; Houston, Christopher; Boshart, Harvey  
**Cc:** Yanakakis, Lisa  
**Subject:** FW: Questions regarding the 133 BPR 40B development.

FYI

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
[Facebook: Town of Weston, MA](#)  
[Twitter: @Town of Weston](#)

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**From:** VanderClock, Donna  
**Sent:** Thursday, September 14, 2017 4:59 PM  
**To:** 'Cara McL-Gavin'  
**Cc:** Aiu, Imaikalani  
**Subject:** RE: Questions regarding the 133 BPR 40B development.

Cara,

I have provided answers to your questions below in red.

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
[Facebook: Town of Weston, MA](#)  
[Twitter: @Town of Weston](#)

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**From:** Cara McL-Gavin [<mailto:caraeilese@yahoo.com>]  
**Sent:** Tuesday, September 12, 2017 11:05 AM  
**To:** VanderClock, Donna  
**Cc:** Aiu, Imaikalani  
**Subject:** Questions regarding the 133 BPR 40B development.

Dear Donna,

Last night at the ZBA meeting many questions arose regarding the 133 BPR development proposal and the town processes that go along with it. There was clearly a tremendous amount of confusion regarding the currently existing 2016 amendment and what the town might be voting on in November.

Last night it was mentioned that you know all the ins and outs of what is going on in town and these procedures, so I wanted to reach out to you for clarification. I have cc'd the town planner as well.

Would you help me to answer the following questions?

1. Can you help to clarify the role of the planning board in this process? They have held many meetings and received a tremendous amount of feedback from the residents, but we are still unsure how that information is going to be used and what ultimate authority they have with regards to this project.

The Planning Board was asked to make a recommendation on a compromise project that would be acceptable to them and likely to be supported by the town and deliver that recommendation to the Selectmen. The PB does not have any authority on the housing project beyond making that recommendation.

2. Can you help clarify the relationship, if any, of the planning board's efforts to meet with residents and the ZBA process for examining this proposal? It sounded last night as if the ZBA will proceed with its process regardless of the enormous efforts made by the planning board to obtain input from the community.

According to Imai, that is not what he heard from the ZBA. When they continued the hearing, it was in consideration of the Planning Board's timelines, and they chose to defer peer review until PB had completed their process and hopefully had a recommended project. The developer knows a town meeting vote is required, so it is unlikely that they would proceed with an application to the ZBA that isn't consistent with the Planning Board's recommendation.

3. What governing body in town oversees the total 40B plan to make sure we don't end up with 500 units instead of the 247-261 units we need? Who has the power to function on behalf of the town's interest in this arena? Who do I reach out to if I want to discuss what is going on?

The ZBA has sole discretion in granting comprehensive permits under 40B, but again, this project can't go forward without an affirmative vote of town meeting. Ultimately, it is up to the Board of Selectmen to decide what is presented to town meeting for approval, i.e. the size of the project.

4. Who will ultimately decide what version of the amendment to the building restriction goes to Town Meeting and will it, or could it be, the 2016 amendment we all know so well? Could it be entirely different from the 2016 amendment? If so, is the 2016 amendment (signed by both parties) then null and void?

The Selectmen will decide what goes to town meeting. The 2016 amendment is only effective if it is approved by town meeting.

5. What is the **deadline** for an amendment article being submitted to the town warrant for November town meeting and is the language submitted the language that will appear at the Town Meeting, or are they allowed to edit it after submission?

The deadline for citizens' petitions is October 10. The Selectmen will adopt the warrant at their meeting currently scheduled for October 26. Whatever is printed in the warrant will have to be substantially what is presented to town meeting. Any amendment made on the floor of town meeting will have to be consistent with the original intent of the warrant article. The Moderator is the one who decides whether or not an amendment can be considered at town meeting.

5. Why is the vote a simple majority vote for the amendment to the restriction and not a two-thirds majority? What is the precedent for this? I, and others, have been made aware that in other towns a two-thirds majority would be used in this context and not a simple majority.

The quantum of vote is determined by law. Zoning bylaw changes and bonding require a 2/3 majority vote, but this particular issue only requires a simple majority.

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6. Building on that question, could there be an article submitted for the warrant to amend the agreement to require a two-thirds majority so that the town's interests are more fully represented.

If such an article were submitted, I believe it would be advisory only and not binding.

Thank you for any help you can provide me in answering these important questions. If you can not answer a question, can you direct me to the correct person.

Best.

Cara Gavin

21 Crescent Street Weston, MA

**Gaumond, Leon**

---

**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Thursday, September 14, 2017 4:10 PM  
**To:** Gillespie, Doug; Houston, Christopher; Boshart, Harvey  
**Cc:** Yanakakis, Lisa  
**Subject:** FW: 40B status

FYI

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
[Facebook: Town of Weston, MA](#)  
[Twitter: @Town of Weston](#)

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**From:** Stockman, Noreen  
**Sent:** Thursday, September 14, 2017 12:03 PM  
**To:** VanderClock, Donna; Field, John F.; Grzenda, Michele; Aiu, Imaikalani; Broomer, Kathleen; Diotalevi, Wendy; Cullen.Thomas; Sweeney, Richard; Fehan, Ben; Soar, David Chief; Goulding, Michael; Sarah Like Rhatigan; Phyllis Halpern; Black, Danielle  
**Subject:** 40B status

Good morning all,

Following is the 40B update:

104 Boston Post Road: 104 Stony Brook LLC

The Zoning Board of Appeals closed this hearing last night, and will now commence with deliberations on the testimony received. No further testimony may be submitted on this case. The decision shall be voted and filed with the Town Clerk within 40 days. The Board thanks you all for the time, effort and expertise you have provided in assisting the Board with the evaluation of this proposal.

133 Boston Post Road: BP Weston Quarry Residential LLC

The next scheduled event is with the Planning Board for a Town-wide meeting on September 26. The Zoning Board has set their next meeting date as October 11, 2017.

Noreen

Noreen H. Stockman  
Staff Assistant for the Zoning Board of Appeals  
and Housing Partnership  
Town of Weston  
P.O. Box 378

Weston, MA 02493  
781-786-5062



**Gaumond, Leon**

---

**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Wednesday, September 13, 2017 4:08 PM  
**To:** Gillespie, Doug; Houston, Christopher; Boshart, Harvey  
**Subject:** FW: 104 Stony Brook, LLC, Chapter 40B Application - from City of Cambridge  
**Attachments:** Ltr to Weston ZBA re City of Cambridge supplemental proposed conditions.pdf

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
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[Twitter: @Town\\_of\\_Weston](#)

*Please be aware that the Secretary of State's office has determined that most emails are public records and, therefore, may not be confidential.*

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**From:** Stockman, Noreen  
**Sent:** Wednesday, September 13, 2017 3:54 PM  
**To:** VanderClock, Donna; Field, John F.  
**Cc:** Grzenda, Michele  
**Subject:** FW: 104 Stony Brook, LLC, Chapter 40B Application - from City of Cambridge

Apologies, I missed adding you in to the forward, fyi:

---

**From:** Stockman, Noreen  
**Sent:** Wednesday, September 13, 2017 3:43 PM  
**To:** Winifred I. Li ([Winifred.Li@ropesgray.com](mailto:Winifred.Li@ropesgray.com)); Jane Fisher Carlson ([duckfish27@verizon.net](mailto:duckfish27@verizon.net)); 'Stephen Larocque'; Ilana Quirk ([iquirk@comcast.net](mailto:iquirk@comcast.net)); 'Ilana Quirk'; Jonathan Silverstein ([JSilverstein@k-plaw.com](mailto:JSilverstein@k-plaw.com))  
**Cc:** Diotalevi, Wendy; Dave Conway ([dconway@nitscheng.com](mailto:dconway@nitscheng.com)); 'Scott Horsley'; Imai Aiu ([aiu.i@westonmass.org](mailto:aiu.i@westonmass.org))  
**Subject:** FW: 104 Stony Brook, LLC, Chapter 40B Application - from City of Cambridge

Attached please find letter from Sean McKendry for City of Cambridge. I'll have extra paper copies this evening.

Noreen

Noreen H. Stockman  
Staff Assistant for the Zoning Board of Appeals  
and Housing Partnership  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5062

---

**From:** McKendry, Sean [<mailto:smckendry@cambridgema.gov>]  
**Sent:** Wednesday, September 13, 2017 3:31 PM  
**To:** Stockman, Noreen  
**Cc:** Barry, Julie  
**Subject:** 104 Stony Brook, LLC, Chapter 40B Application - supplemental comments from City of Cambridge

Noreen:

Enclosed please find supplemental proposed conditions," from the City of Cambridge in light tonight's hearing before the Weston ZBA concerning the above referenced matter.

Thank you,

-Sean McKendry

**Sean M. McKendry, Esq.**  
**Assistant City Solicitor**  
**City of Cambridge Law Department**  
**Cambridge City Hall**

Address: 795 Massachusetts Avenue, Cambridge, MA 02139

Telephone: (617) 349-4121 Fax: (617) 349-4134

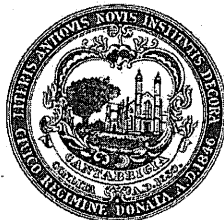
Email: [smckendry@cambridgema.gov](mailto:smckendry@cambridgema.gov)

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Nancy E. Glowa  
City Solicitor

Arthur J. Goldberg  
Deputy City Solicitor

Vali Buland  
First Assistant City Solicitor



Assistant City Solicitors  
Paul S. Kawai  
Samuel A. Aylesworth  
Keplin K. U. Allwaters  
Sean M. McKendry  
Megan B. Bayer  
Brian A. Schwartz

Public Records Access Officer  
Jennifer Simpson

## CITY OF CAMBRIDGE

Office of the City Solicitor  
795 Massachusetts Avenue  
Cambridge, Massachusetts 02139

September 13, 2017

**BY EMAIL: [stockman.n@westonmass.org](mailto:stockman.n@westonmass.org)**

**AND IN HAND DELIVERY**

Attn: Noreen H. Stockman  
Staff Assistant for the Zoning Board of Appeals and Housing Partnership  
Town of Weston  
P.O. Box 378  
Weston, MA 02493

**Re: City of Cambridge's Supplemental Response to 104 Stony Brook LLC's  
G.L. c. 40B Comprehensive Permit Application for its Proposed Project  
at 104 Boston Post Road**

Dear Members of the Weston Zoning Board of Appeals:

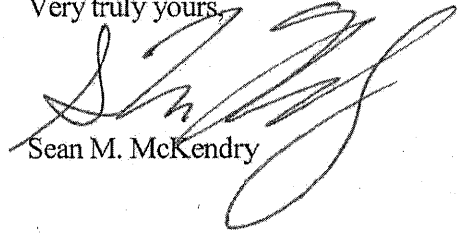
Enclosed please find attached the City of Cambridge's ("City") proposed supplemental conditions with respect to the Applicant 104 Stony Brook LLC's ("Applicant") Chapter 40B permit application that is currently pending before the Weston Zoning Board of Appeals ("ZBA").

Please note that the City's paramount concern with respect to the Applicant's Chapter 40B application is the protection of the City's public water supply in light of the close proximity of the Applicant's proposed construction work to the Stony Brook and Stony Brook Reservoir, both of which the City uses for its public water supply. Although the City supports and is a proponent of the development of affordable housing in Massachusetts, the City has serious concerns with several aspects of the Applicant's Chapter 40B permit application. These concerns are laid out in the attached proposed supplemental conditions, and in the prior comments and filings the City submitted regarding this project.

In light of these concerns, if the Weston ZBA is inclined to issue a Chapter 40B permit to the Applicant for this project, the City respectfully requests that the Weston ZBA include the attached proposed supplemental conditions in said permit as conditions that the Applicant must abide by with respect to the issuance of the permit

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. McKendry', written over the typed name.

Sean M. McKendry

cc:

Julie Barry, Prince Lobel Tye LLP

**City of Cambridge Proposed Conditions and Comments  
104 Stony Brook LLC's Chapter 40B Application to  
Weston Zoning Board of Appeals, Weston, Massachusetts**

**Conditions and Supplemental Comments Related to Proposed Stormwater Management System**

1. 104 Stony Brook, LLC ("Applicant") will amend the Operation and Maintenance Plan contained in the Revised Drainage Report, dated August 11, 2017, that was prepared by Allen & Major Associates, Inc. ("Allen & Major") to include information regarding the operation and maintenance of the proposed mechanical snow melt system as specified in the letter that Tim Williams ("Williams") of Allen & Major submitted to David Kaplan ("Kaplan") of the Cambridge Water Department ("CWD") on May 16, 2017. A copy of Williams' May 16, 2017 letter is attached to these conditions and comments as Exhibit "A" and incorporated herein.
2. As CWD has discussed with Allen & Major, including in an email correspondence Williams sent to Kaplan on May 18, 2017, based on the City of Cambridge's ("City") experience with other projects in the vicinity of its watershed lands, the construction phase erosion and sediment control plan needs to be modified to address the steep grades of the site of the Applicant's proposed project and proximity to the Stony Brook, the Stony Brook Reservoir, the City's abutting watershed land and any nearby Zone A land. The Applicant's erosion and sediment control plan should address construction runoff to a Class A Surface Water Source under 314 CMR 4.00 et seq., and the Applicant agrees to work with CWD and the Massachusetts Department of Environmental Protection ("MADEP") (through the BRP WM 15 permitting process) during the development of construction phase documents to design a system that captures 100% of construction-phase runoff. Although the City understands that the details of said system will be developed as part of preparing the construction phase documents, at a minimum, the Applicant shall, prior to any major disturbance/tree removal, demolition and/or site preparation, or any other activities exposing sediments to mobilization, install a sediment pond designed to capture 100% of the construction phase runoff at the site in addition to other sediment control measures that may be proposed. Williams' May 18, 2017 email is attached to these conditions and comments as Exhibit "B" and incorporated herein.
3. The Applicant, and any of its successors in interest, must perform inspections of the construction phase and post-construction stormwater management systems every three (3) months after the start of construction and operation of said systems and provide a report to CWD detailing what effects, if any, the stormwater management systems have had on the Stony Brook, the Stony Brook Reservoir, the City's abutting watershed land and any nearby Zone A land. Additionally, as to the construction phase stormwater system, the Applicant must provide CWD copies of each report that is submitted to the United States Environmental Protection Agency pursuant to the requirements for National Pollutant Discharge Elimination System General Permits for Discharges from Construction Activities. If any impacts are identified by either the Applicant, any of its successors in interest, or CWD, the Applicant, or any of its successors in interest, must promptly prepare a remedial plan for addressing the impacts. Any such plan must be submitted to and approved by CWD.

4. The work proposed by the Applicant will go up to the property line abutting the City's watershed land and will involve a significant amount of blasting activity, including blasting for the purpose of, *inter alia*, installing the post-construction phase stormwater management system and developing stone base material for beneath this system (if it is determined that said system is feasible). The City is concerned that the Stony Brook, the Stony Brook Reservoir, its abutting watershed land and nearby Zone A will be adversely impacted by this blasting activity. The Applicant has not submitted sufficient information to allow the City to evaluate these potential impacts. See email from Charles Tripp of Kleinfelder to Kaplan dated July 26, 2017, which is attached hereto and incorporated herein as Exhibit "C."

Therefore, as a condition of any permit issued to the Applicant by the Weston Zoning Board of Appeals ("ZBA") for this project, the Applicant shall:

- a. retain a geotechnical engineer to perform a geotechnical review, including evaluating observed bedrock and making references to fracture patterns in the bedrock and installing additional bedrock borings as necessary, and prepare a geotechnical report and a blasting plan for the proposed work demonstrating that the Stony Brook, the Stony Brook Reservoir, the City's abutting watershed land and any nearby Zone A land will not be impacted by the proposed blasting;
- b. submit any such geotechnical review and blasting plan prepared by its geotechnical engineer to the City and CWD for review and comment; and
- c. obtain the City and CWD's approval before any such blasting work is performed.

Further, this condition is not limited to blasting work related to the proposed stormwater management system. Rather, this condition encompasses **any** blasting work to be performed by the Applicant as part of the underlying project.

5. The geotechnical review and geotechnical report referenced in paragraph 4, above, must also evaluate the potential for migration of groundwater into the post-construction stormwater management system via foundation underdrains. The effect of groundwater if found to be present at the proposed depths would contribute significantly to the design and sizing of the proposed post-construction stormwater management system. The geotechnical review and geotechnical report must also include an evaluation into slope stability and proposed ledge face design parameters around the perimeter of the site.

6. The Applicant shall provide to the ZBA and CWD a signed "Illicit Discharge Compliance Statement" pursuant to standard no. 10 of MADEP's Stormwater Management Standards.

7. The Applicant shall comply with 314 CMR Part 9 and other regulatory requirements regarding stormwater management systems (as well as the construction of wastewater treatment systems) in the Zone A land of a public water supply as addressed in the comments that the City and others previously submitted to the ZBA. The City also notes that it is imperative that the Applicant ensure that the level spreader and rip apron outlet remain set back 200 feet from the Stony Brook and not be field adjusted to a closer extent during construction.

8. The Applicant shall monitor the woodland areas downgradient of the post-construction stormwater management system outlet on a quarterly basis at a minimum, but specifically after

rain events in excess of a 10-year storm event to ensure that the gabion wall and mattress, level spreader, and rip rap apron are operating as intended, and that erosion and sedimentation are not impacting the Stony Brook, the Stony Brook Reservoir, the City's abutting watershed land and any nearby Zone A. If any impacts are identified by either the Applicant, or any of its successors in interest, or the City, the Applicant, or its successors in interest, must promptly prepare a remedial plan for addressing the impacts. Any such plan must be submitted to and approved by CWD.

9. The City is specifically reserving its right to challenge the determination by the ZBA, MADEP or the Applicant that the design of the construction and post-construction stormwater management systems satisfy the requirements of all applicable environmental laws.

**Conditions and Supplemental Comments Related to Proposed Wastewater Management Treatment Plant**

1. The City and the Applicant have engaged in discussions regarding the City's concerns with the design of the proposed wastewater treatment plant to be constructed at the site of the Applicant's proposed project. The Applicant has represented to the City that the City's concerns will be addressed in the final construction documents for the proposed wastewater treatment plant (the "WWTP Construction Documents"). The Applicant shall submit the WWTP Construction Documents to MADEP for review and approval prior to construction of the plant, and the Applicant agrees to simultaneously provide copies of the WWTP Construction Documents to the City for the City's review. The Applicant agrees to address the reasonable comments and requested improvements of the City based on the requirements of applicable environmental laws. The City is specifically reserving its right to challenge the determination by the ZBA, MADEP or the Applicant that the final wastewater treatment plant design satisfies the requirements of all applicable environmental laws. The concerns which the Applicant must address with respect to the proposed wastewater treatment plant in the WWTP Construction documents include, but are not limited to the following:

- a. The wastewater treatment plant design is based on "medium" strength wastewater. According to the MADEP, influent to newer treatment works often has higher waste load concentrations (especially TSS), likely due to lower water use fixtures. Calculations demonstrating that the design is capable of handling intermittent periods when there may be higher strength influent waste loads to the plant must be provided.
- b. The wastewater treatment plant as currently proposed will have three evaporator units, each at a capacity of 9,600 gallons per day (total design flow is 28,850 gallons per day). Disposal of full design flows will necessitate use of all three units with no redundancy. The design includes a treated water storage tank, which provides approximately two days storage of flows should there be an issue with any of the evaporator units. The capacity of the evaporator unit assumes that the units will operate continuously for 24 hours/day. It should be noted that the long operating hours of the evaporator units could potentially increase the risk of failure, and the repair time and/or lead time for equipment/parts will likely far exceed the storage time. Therefore, redundancy with a minimum of one (1) additional evaporator unit must be added to the proposed wastewater treatment plant. Additionally, spare

parts shall be kept on site, and there shall be a written contingency plan for operations when sustained high flows or loss of a treatment unit impact the continuity of the treatment and disposal system.

- c. The design of the wastewater treatment plant includes an emergency power generator to provide power for operating the entire facility. However, there is no backup gas supply provided for the ENCON Thermal Evaporators which are gas fired units. The Applicant must either provide backup gas supply or a written contingency plan for disposal of treatment effluent water in the case of gas service disruption.
- d. The design of the wastewater treatment plant includes a ventilation and odor control system. Since the entire wastewater treatment plant, including the primary and flow equalization tanks, will be enclosed in a building, a continuous gas monitoring system ( $H_2S$ ,  $O_2$ , and combustible gas) must be installed in the treatment works space such that any unsafe conditions will result in an alarm notification to a continuously staffed area.
- e. There is potential presence of trace volatile organic matter from pharmaceutical and personal care products ("PPCP") emitted from the evaporation process with respect to the wastewater treatment plant. Under certain weather conditions, the PPCP compounds could be transported to the water bodies via atmospheric deposition. The evaporation of treated sewerage within Zone A land is an unprecedented approach. Current state level air pollution regulations only cover emissions from permitted treatment facilities which are prohibited in Zone A lands. At a minimum, monitoring of evaporated vapor air quality including, but not limited to, VOC,  $SO_2$ ,  $H_2S$ , DMS (dimethyl sulfide) must be implemented and vapor emissions must comply with MADEP limits.
- f. The wastewater treatment plant's treatment process can be impacted by inappropriate disposal of household chemicals. In addition, PPCP compounds could impact source water via atmospheric deposition as described in item 1(e), above. Therefore, a written "good house-keeping" practices must be prepared and implemented, and continued by any of the Applicant's successors in interest, to prevent inappropriate disposal of household chemicals and PPCP compounds.
- g. Since all the elements of the proposed wastewater treatment plant would be located in an enclosed space (under the parking garage), access to remove/replace any of the units is through a "knock-out wall." The final design must include more details on when and how this access would be utilized, and a copy of said design must be provided to CWD.
- h. The current design of the wastewater treatment plant requires periodic removal of screenings, wastewater sludge and evaporation residuals as well as storage/delivery of chemicals essential to the wastewater treatment process. The Applicant must demonstrate how these activities will be safely managed to prevent adversely impacting the Stony Brook, Stony Brook Reservoir, the City's abutting watershed



land and any nearby Zone A land. Issues to consider with respect to these activities must include, but not be limited to:

- i. the transfer of the wastes from storage tanks to the hauling tanker truck must be handled inside the buildings;
  - ii. designated containment area(s) must be designed to prevent spills during filling; and
  - iii. any wash down of spills must occur inside the building.
- i. The proposed membrane reactor plant of the wastewater treatment plant includes a membrane clean-in-place system that uses chemicals such as sodium hypochlorite (NaOCl), hydrogen peroxide (H<sub>2</sub>O<sub>2</sub>), and citric acid to prevent clogging and scaling of the membrane. Provisions must be provided for proper handling these chemicals pursuant to pertinent hazard waste material disposal regulations.
  - j. Given that the proposed project is a residential facility and located in the Zone A of a public water supply, an immediate repair/replacement account with respect to the wastewater treatment plant must be funded and maintained by the Applicant, and any successors in interest, in an amount sufficient to quickly and fully address any issues which arise with the treatment works. Guidance developed by MADEP for establishing and funding this type of account should be followed.

2. The Applicant, and any of its successors in interest, must hire a licensed operator who monitor the operation of the wastewater treatment plant, and perform an inspection of the wastewater treatment plant at a minimum of once a month after the start of construction and operation of the plant and provide a report to CWD detailing what effects, if any, the wastewater treatment plan has had on the Stony Brook, the Stony Brook Reservoir, the City's abutting watershed land and any nearby Zone A land. The exact parameters of such inspections will be determined at a later date and will be approved by CWD, and may be further amended by the CWD if necessary. The Applicant will provide a monthly inspection report to MADEP, the Weston Board of Health and CWD. If any impacts are identified by either the Applicant, or any of its successors in interest, or the City, the Applicant, or its successors in interest, must promptly prepare a remedial plan for addressing the impacts. Any such plan must be submitted to and approved by CWD.

### **Other Concerns**

1. The City owns watershed land that abuts the Applicant's land to the west, southwest, south and southeast. The Applicant's proposed project will include the construction of a building that will contain 150 residential units. In light of the scale of this project, the likelihood of trespassers accessing the City's property and illegally using the Stony Brook and Stony Brook Reservoir will increase once the project is completed, as the use of the Applicant's land will change from an office use to a residential use that will accommodate hundreds of people. In light of this increased risk, the Applicant, and any of its successors in interest, must take the following measures to prevent trespassers from accessing the City's property, the Stony Brook and Stony Brook Reservoir:

- a. install and maintain signage and fencing at locations acceptable to CWD prohibiting access to the City's property as well as the Stony Brook and Stony Brook Reservoir;
- b. offer to lease to the City space on the proposed residential building for \$1.00 per year for the installation of a video camera directed at the City's property to assist in monitoring its land as well as the Stony Brook and Stony Brook Reservoir; and
- c. include provisions in any and all agreements for and pertaining to the rental or purchase of units in the proposed residential building to be constructed on the Applicant's land prohibiting renters and unit owners from trespassing onto the City property, and that any trespass onto the City's property may result in eviction in the case of rentals units.

**Gaumond, Leon**

---

**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Wednesday, September 13, 2017 8:47 AM  
**To:** 'Li, Winifred I.'; 'duckfish27@verizon.net'; slj larocque  
**Cc:** Stockman, Noreen; Ilana Quirk; Jonathan Silverstein (JSilverstein@k-plaw.com); Lauren Goldberg; Gillespie, Doug; Houston, Christopher; Boshart, Harvey; Aiu, Imaikalani  
**Subject:** 104 Boston Post Road - Letter from BOS  
**Attachments:** Letter to ZBA re 104 BPR 9.12.17.pdf; Memo -Site Analysis.pdf

ZBA Members,

Please see the attached letter from the Board of Selectmen, which was approved at their meeting last night, regarding the Comprehensive Permit Application for 104 Boston Post Road. In addition, I am forwarding a site analysis prepared by the Planning Board.

Thank you for your consideration of both documents.

Donna S. VanderClock  
Town Manager  
Town of Weston  
P.O. Box 378  
Weston, MA 02493  
781-786-5020  
781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
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TO: Zoning Board of Appeals  
FROM: Board of Selectmen  
RE: Comprehensive Permit Application for 104 Boston Post Road  
DATE: September 12, 2017

As the Zoning Board of Appeals ("ZBA") nears the conclusion of the public hearing on the Comprehensive Permit Application by 104 Stony Brook LLC (the "Developer") to construct 150 residential rental units on 2.1 acres of buildable land at 104 Boston Post Road (the "Project"), a density of almost 75 units per acre, the Board of Selectmen ("BoS") wishes to itemize the local concerns the BoS believes are present that outweigh the regional need for affordable housing. The BoS believes that the local concerns would support a denial of the relief and we urge the ZBA to deny the relief for these reasons or, if the ZBA does not deny the relief, we urge the ZBA to impose conditions to address and properly mitigate the local concerns. We have enclosed a copy of our April 6, 2017 letter to the ZBA regarding the Project for your convenience.

The BoS has reviewed the materials submitted to the ZBA and those materials, including, particularly, the peer reviews provided to the ZBA and feedback from other Town entities, and has identified the following major local concerns:

**1. Traffic Safety at Route 20 (Boston Post Road) and Sibley Road.**

The Project would result in a huge increase in vehicle turns that would be made against traffic in this very heavily travelled commuter corridor. As you know, a huge number of vehicles use this corridor to gain access to and to exit from the Route 128 Interchange and there is an existing traffic signal in close proximity to Sibley Road that serves Biogen, diagonally across Boston Post Road from the Project. The Project will generate dangerous turns against traffic as residents and visitors exit the Project from Sibley Road and then turn left down Boston Post Road. This will interfere with vehicles using the traffic signal to take a left out of the Biogen driveway and with other traffic traveling in the Boston Post Road lane closest to the Project. The Project also will generate dangerous turns against traffic as residents and visitors turn left into Sibley Road, after exiting from the Route 128 interchange. The BoS believes that these traffic concerns are local concerns that outweigh the regional need for affordable housing and urges the ZBA to deny the Project due to this local concern.

Certainly, if there is a local concern that outweighs the regional need for affordable housing, the ZBA still is required to grant the comprehensive permit relief if there are conditions that can be imposed that would mitigate the local concern. So, the ZBA will need to consider whether there are traffic interchange improvements (perhaps a widening of the road, the addition of turning lanes, and the installation of new signals, and perhaps the imposition of conditions that there shall be no left hand turns out of Sibley Road and no left hand turns into Sibley Road). The BoS urges that the Developer be required to pay for all necessary improvements.

## **2. Pedestrian Safety for Residents of the Proposed Project.**

There are no sidewalks on the side of Boston Post Road that abuts the Project and no safe means to reach the traffic signal to safely cross the road and reach the sidewalk on the opposite side of the road. The only amenity that could be safely accessed by residents of the Project on foot would be the nearby gas station (with a Dunkin Donuts), and this means that the residents (and their children) will not be able to walk from the Project site to other area amenities. Attempts by pedestrians to cross Boston Post Road to reach the sidewalk across the street would be extremely dangerous, particularly for children and particularly when it is dark.

The only way to provide for adequate pedestrian safety would be to install a sidewalk from the Project site down Boston Post Road, until the traffic signal is reached. This would require the Developer to obtain land or an easement from the City of Cambridge. We strongly recommend, if the comprehensive permit relief is granted, that the Developer be required to design and install the necessary sidewalk connection at the Developer's sole expense. The additional sidewalk would allow for safer school bus pick up and drop off, which is of critical importance to protect the children who would live at the Project (though we also note, support, and refer the ZBA to the August 8, 2017 letter from the School Committee explicitly supporting a bus stop located on the Project, which is not currently included, and opposing a cluster stop on Boston Post Road, regardless of sidewalk).

## **3. Sewage and Wastewater Treatment**

The BoS understands that the ZBA will not provide relief to permit the proposed sewage facilities as that relief involves a state permit, not a local one, so the comprehensive permit will not specifically address the issuance of the necessary relief to allow construction of the proposed wastewater facility; however, the Weston Board of Health has adopted sewage disposal regulations that do apply to the Project, despite the fact that the Developer asserts that the regulations are not applicable. The Board of Health's regulations (known as "Chapter VI of the Board of Health's Regulations") specifically acknowledge that "much of Weston is located within the city of Cambridge watershed" and that this watershed requires an enhanced level of protection and, as a result, Chapter VI includes requirements that expressly provide for a "more environmentally restrictive code for the design and construction of subsurface sewage disposal systems than required under Title V." The Board of Health's Chapter VI §2.5 Distance Requirements expressly provides that: "No foundation wall or footing shall be located within ... 10 feet of a septic tank." The wastewater treatment facility proposed for the Project, which will include one or more septic tanks, is proposed to be located inside the proposed building for the Project, and this is expressly prohibited under the local regulations, which are more restrictive than Title V; and, no waiver has been requested.

The location of the wastewater facility within the building (in violation of the setback requirement imposed under Chapter VI, §2.5 that is designed to protect the Cambridge Reservoir and its watershed) is a basis upon which the ZBA may deny the proposed comprehensive permit relief, as Chapter VI §2.5 and its prohibition against the proposed location of the facility presents a local concern that outweighs the regional need for affordable housing. There is no doubt that the vast majority of the property where the Project is to be located and where the wastewater facility would be located are within the Zone A, which is afforded specific and express protection under the Board of Health's Regulations.

Certainly, the Cambridge Reservoir is a critical asset as a source of drinking water, not only for the City of Cambridge, but for the entire Commonwealth as Cambridge is a member of the MWRA and would have the right (and the need) to access the MWRA's drinking water, should the Cambridge Reservoir become contaminated. This would have far reaching implications for the entire Commonwealth. While the Project may not, by itself, lead to immediate contamination of the Cambridge Reservoir, the Project still should not be allowed for two reasons. First, the land where the Project is located provides valuable treatment for the stormwater runoff that leads to the reservoir and the cumulative impact of allowing exceptions to the Zone A protections precludes allowing any exception. Second, it is certainly possible that an accident could occur at the Project, were it allowed, and that the holding tanks proposed for the subbasement of the proposed Project could leak and flow directly through fissures to the Cambridge Reservoir, causing contamination. This risk should not be allowed.

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Under Weston General By-law Article XXVII Stormwater and Erosion Control §VI.C and Weston Stormwater & Erosion Control Regulations §7.A Stormwater Management Design and Performance Criteria, the Project is required to satisfy all of the Massachusetts Stormwater Standards and the Stormwater Management Handbook, which includes an express prohibition against siting the Project in the Zone A. This is a local concern, to protect the Cambridge Reservoir and its watershed and the impact that contamination of Cambridge's water supply would have on the MWRA, that outweighs the regional need for affordable housing.

#### **5. Conclusion**

While there is a presumption, if a 40B safe harbor does not exist, that there is not a local concern that outweighs the regional need for affordable housing, that presumption is rebuttable, with the burden of proof on the ZBA to prove that there is a local concern or set of local concerns that outweigh the regional need for affordable housing and that there are not conditions that can be imposed that would mitigate against the local concerns. The local concerns identified, in broad terms above and in greater detail in the ZBA's record of proceedings, outweigh the regional need for affordable housing.

The BoS has been tentatively amenable to the suggestion that a significant reduction in the scope of the Project might allow it to proceed without giving rise to such substantial local concerns as highlighted above. This is one reason that the BoS sought a site analysis from the Planning Board. However, as that site analysis concludes, there does not appear to be capacity that could be developed at this site greater than what exists there already.

As noted above, the BoS believes that the local concerns highlighted above are sufficient grounds to deny the Comprehensive Permit for this Project. If instead the ZBA decides to grant a Comprehensive Permit, we encourage the ZBA to condition it appropriately, to make sure the local concerns are addressed sufficiently – and we note our belief that the potential harm to the adjacent water supply (whether the cumulative harm that would result due to loss of watershed protection or the direct harm that would result from an accident that would cause direct contamination) cannot be mitigated.

We encourage the ZBA to deny the proposed relief or, at a minimum, to include sufficient conditions to protect the Project's future residents, the Town, members of the public who use Route 20 and Sibley Road, the City of Cambridge, and the MWRA, including sureties to protect against damages and consequences – and if the Developer is so sure of the public representations that these specified problems will not arise, the Developer should be willing and able to provide such sureties.<sup>1</sup>

The BoS obviously wants the ZBA to abide by state law in rendering its decision, with the good guidance of town counsel. Nonetheless, to the extent state law allows (or is subject to interpretation), the BoS encourages the ZBA to diligently safeguard the interests and the substantial local concerns highlighted above (as well as other local concerns that the ZBA may identify but that are not highlighted herein). More specifically, the ZBA should not be concerned that it will somehow be blamed or culpable if with town counsel's guidance it renders a decision that it believes is legally permissible and defensible but then is contested by the Developer or anyone else, in court or otherwise. The BoS on behalf of the Town will support the ZBA in its efforts to satisfy local and state law and to defend the local concerns identified by the ZBA.

We note that the BoS is committed to increasing affordable housing, as called for under the Town's Housing Production Plan ("HPP"), which was approved by DHCD on June 27, 2016, as


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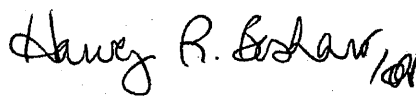
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further evidenced by the BoS's support for other projects in Town, including one proposed for 133 Boston Post Road, which would produce far more affordable housing in a more appropriate and much safer location, a project that does not give rise to the type of serious local concerns that are itemized above.

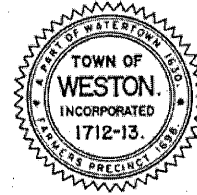
Finally, we extend our sincere thanks to the ZBA for the time, attention, and diligence the members have given to this difficult and complicated matter (and to the other recent and pending projects).

  
Douglas P. Gillespie, Chair

  
Harvey R. Boshart

  
Christopher E. Houston





## TOWN OF WESTON

PLANNING BOARD  
P.O. BOX 378  
WESTON, MA 02493

TEL: 781-786-5065  
FAX: 781-786-5069

### MEMORANDUM

**DATE:** September 6, 2017  
**TO:** Weston Board of Selectmen  
**CC:** Weston Zoning Board of Appeals (ZBA)  
**FROM:** Weston Planning Board  
**RE:** 104 Boston Post Road - MGL Chapter 40B Comprehensive Permit Application

The Weston Planning Board was asked by the Board of Selectmen to perform a site analysis of 104 Boston Post Road with the goal of determining a project whose scale, scope and associated impacts could be more readily absorbed by the Town of Weston.

In determining this project size the Board began with consideration of traffic/ vehicular access to the site and septic/wastewater disposal as defining the absolute limits of the project size. These parameters have become critical infrastructure and health and safety questions over the course of the Comprehensive Permit hearings. With these limits fixed, the Board then intended to investigate the more flexible parameters such as site sensitivity, historic aspects, and size and mass.

#### Traffic and Vehicular Access

The Zoning Board of Appeals traffic consultant, MDM Transportation Consultants, sent a memo dated August 3, 2017 which points out several deficiencies in the proposed traffic improvements. Notably, there are safety issues with making a left turn from Route 20 into the project. The memo states:

*"The conceptual design does not meet applicable safety-based design criteria including sight lines for vehicles approaching the left-turn lane, lane transition length to allow proper deceleration of vehicles, storage length to accommodate projected peak-hour volumes. Further, the left-turn lane is in direct conflict with Mobil station driveways which have a known and documented history of illegal turning movements (particularly the west driveway) including those noted on the most recently submitted local crash data and collision diagramming submitted by the Applicant.*

*"Proposed access improvements at Sibley Road if not designed to address known operational deficiencies at the Mobil Station (illegal turns) and recognized standards published by MassDOT for high-speed travel on Route 20 presents a serious safety concern (emphasis added) that has a direct bearing on public travel on Route 20 and Sibley Road."*

The memo goes on to state, *"The present concept for Route 20 improvements is seriously deficient relative to safety-based design criteria (sight lines, lane transition and storage lengths, conflict with Mobil Station driveway operations) and we have serious doubt that these design criteria can be met based on constraints imposed by the nearby Route 20/I-95 Interchange."*

MDM has subsequently provided the Planning Board with a conceptual layout of a left turn that would meet published MassDOT safety standards which illustrate these constraints in creating a safe access.

In particular MDM recommends *“Design features that physically restrict left-turn exiting movements from the adjoining Mobil Station property that are in direct conflict with the proposed left turn lane.”*

In consideration of MDM's evaluation, the Planning Board concludes that the safe access for a project of any size beyond what is existing, or nominally larger, **cannot be reasonably accomplished** without consent and approval of adjoining land owners whose properties would be materially impacted by the required roadway widening and pedestrian improvements.

### **Septic and Wastewater Disposal**

The Town of Weston Health Director, Wendy Diotalevi, issued a memo to the ZBA dated December 22, 2016 which described the restrictions of placing any type of wastewater system on the site. Her memo notes that the “site is almost entirely within 400’ buffer zone of the Stony Brook Reservoir which is a surface water supply for the City of Cambridge,” and that “Both Title V of the State Environmental Code 310 CMR 15.211 and the Ground Water Discharge Permit Program (GWDPP), 314 CMR 5.06 (1c) require all discharges, conveyance structures and tankage to be outside the 400’ buffer zone of a Zone A surface water supply.”

Ms. Diotalevi also provided a copy of both the 248 CMR 10.00: Uniform Plumbing Code which states *“suitable provisions shall be made for disposing of the sewage in compliance with 248 CMR 3.00 and 310 CMR 15.00”* and 105 CMR MINIMUM STANDARDS OF FITNESS FOR HUMAN HABITATION (STATE SANITARY CODE, CHAPTER II) 410.300 which states, *“The owner shall provide, for each dwelling, a sanitary drainage system connected to the public sewerage system, provided, that if, because of distance or ground conditions, connection to a public sewerage system is not practicable, the owner shall provide, and shall maintain in a sanitary condition, a means of sewage disposal which is in compliance with 310 CMR 15.00: Subsurface Disposal of Sanitary Sewage (Title V).”*

The applicant's wastewater system is thus regulated by Title 5 of the State Environmental Code 310 CMR 15.211 and prohibited within the 400’ buffer of the Zone A water supply.

It cannot be overemphasized that these restrictions are in place to protect drinking water. There is no more critical resource than this.

In an email dated 8/29/17, Ms. Diotalevi stated that the applicant could build a residential project which has no more impact than the current use, which amounts to approximately six bedrooms. Any larger or expanded system would be prohibited.

With these restrictions, the Planning Board again concludes that the any project beyond what already exists **cannot be provided with a compliant means of disposing sewage.**

In summary the following public health and safety concerns preclude any sizable project; 1) access to the site through a design that does not meet minimum standards in an already complicated and dangerous intersection; and 2) the lack of a permissible septic system that would not endanger a drinking water supply. As such the Planning Board cannot continue further analysis of the site as there is no building to consider.

The Planning Board, therefore, urges denial of the project as the applicant has not proposed a project that is permissible under Massachusetts state standards; and further, the project as proposed has been evaluated to present public health and safety risks by both the Zoning Board of Appeals' consultant and the town's Public Health Director. The documented local concerns of health and safety should outweigh the need for housing.

**Gaumond, Leon**

---

**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Tuesday, September 12, 2017 5:55 PM  
**To:** Boshart, Harvey  
**Cc:** Yanakakis, Lisa; Boshart, Harvey; Gillespie, Doug  
**Subject:** RE: FW: Weston 104 BPR 40B  
**Attachments:** Letter to ZBA re 104 BPR 9.12.17.docx

Final version after consultation with Town Counsel is attached for your review.

Donna S. VanderClock  
 Town Manager  
 Town of Weston  
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 Weston, MA 02493  
 781-786-5020  
 781-786-5029 (fax)  
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[Twitter: @Town of Weston](https://twitter.com/Town_of_Weston)

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**From:** H Robert Boshart [<mailto:hrboshart@gmail.com>]  
**Sent:** Tuesday, September 12, 2017 4:56 PM  
**To:** VanderClock, Donna  
**Cc:** Yanakakis, Lisa; Boshart, Harvey; Gillespie, Doug  
**Subject:** Re: FW: Weston 104 BPR 40B

I love it when Chris says "in the interests of brevity...."

See you tonight.

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Doug & Harvey,

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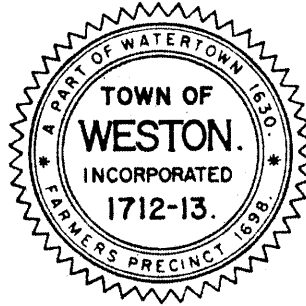
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TO: Zoning Board of Appeals  
FROM: Board of Selectmen  
RE: Comprehensive Permit Application for 104 Boston Post Road  
DATE: September 12, 2017

As the Zoning Board of Appeals (“ZBA”) nears the conclusion of the public hearing on the Comprehensive Permit Application by 104 Stony Brook LLC (the “Developer”) to construct 150 residential rental units on 2.1 acres of buildable land at 104 Boston Post Road (the “Project”), a density of almost 75 units per acre, the Board of Selectmen (“BoS”) wishes to itemize the local concerns the BoS believes are present that outweigh the regional need for affordable housing. The BoS believes that the local concerns would support a denial of the relief and we urge the ZBA to deny the relief for these reasons or, if the ZBA does not deny the relief, we urge the ZBA to impose conditions to address and properly mitigate the local concerns. We have enclosed a copy of our April 6, 2017 letter to the ZBA regarding the Project for your convenience.

The BoS has reviewed the materials submitted to the ZBA and those materials, including, particularly, the peer reviews provided to the ZBA and feedback from other Town entities, and has identified the following major local concerns:

**1. Traffic Safety at Route 20 (Boston Post Road) and Sibley Road.**

The Project would result in a huge increase in vehicle turns that would be made against traffic in this very heavily travelled commuter corridor. As you know, a huge number of vehicles use this corridor to gain access to and to exit from the Route 128 Interchange and there is an existing traffic signal in close proximity to Sibley Road that serves Biogen, diagonally across Boston Post Road from the Project. The Project will generate dangerous turns against traffic as residents and visitors exit the Project from Sibley Road and then turn left down Boston Post Road. This will interfere with vehicles using the traffic signal to take a left out of the Biogen driveway and with other traffic traveling in the Boston Post Road lane closest to the Project. The Project also will generate dangerous turns against traffic as residents and visitors turn left into Sibley Road, after exiting from the Route 128 interchange. The BoS believes that these traffic concerns are local concerns that outweigh the regional need for affordable housing and urges the ZBA to deny the Project due to this local concern.

Certainly, if there is a local concern that outweighs the regional need for affordable housing, the ZBA still is required to grant the comprehensive permit relief if there are conditions that can be imposed that would mitigate the local concern. So, the ZBA will need to consider whether there are traffic interchange improvements (perhaps a widening of the road, the addition of turning lanes, and the installation of new signals, and perhaps the imposition of conditions that there shall be no left hand turns out of Sibley Road and no left hand turns into Sibley Road). The BoS urges that the Developer be required to pay for all necessary improvements.

## **2. Pedestrian Safety for Residents of the Proposed Project.**

There are no sidewalks on the side of Boston Post Road that abuts the Project and no safe means to reach the traffic signal to safely cross the road and reach the sidewalk on the opposite side of the road. The only amenity that could be safely accessed by residents of the Project on foot would be the nearby gas station (with a Dunkin Donuts), and this means that the residents (and their children) will not be able to walk from the Project site to other area amenities. Attempts by pedestrians to cross Boston Post Road to reach the sidewalk across the street would be extremely dangerous, particularly for children and particularly when it is dark.

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#### **5. Conclusion**

While there is a presumption, if a 40B safe harbor does not exist, that there is not a local concern that outweighs the regional need for affordable housing, that presumption is rebuttable, with the burden of proof on the ZBA to prove that there is a local concern or set of local concerns that outweigh the regional need for affordable housing and that there are not conditions that can be imposed that would mitigate against the local concerns. The local concerns identified, in broad terms above and in greater detail in the ZBA's record of proceedings, outweigh the regional need for affordable housing.

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Douglas P. Gillespie, Chair

Harvey R. Boshart

Christopher E. Houston

**Gaumond, Leon**

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**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Tuesday, September 12, 2017 5:04 PM  
**To:** Boshart, Harvey  
**Cc:** Yanakakis, Lisa; Boshart, Harvey; Gillespie, Doug  
**Subject:** RE: FW: Weston 104 BPR 40B

Just so you know – I'm expecting an updated version shortly, which I'll send to you.

Donna S. VanderClock  
 Town Manager  
 Town of Weston  
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Donna S. VanderClock

Town Manager

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P.O. Box 378

Weston, MA 02493

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781-786-5029 (fax)

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**Attachments:** ZBA Letter.docx

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781-786-5020  
781-786-5029 (fax)  
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*Please be aware that the Secretary of State's office has determined that most emails are public records and, therefore, may not be confidential.*

TO: Zoning Board of Appeals  
FROM: Board of Selectmen  
RE: Comprehensive Permit Application for 104 Boston Post Road  
DATE: September 12, 2017

As the Zoning Board of Appeals ("ZBA") nears the conclusion of its hearing on the Comprehensive Permit Application by 104 Stony Brook LLC (the "Developer"), for a 40B project at 104 Boston Post Road (the "Project"), the Board of Selectmen ("BoS") wishes to reiterate its substantial concerns with the Project and in turn encourage the ZBA to deny the requested Comprehensive Permit (or, if the ZBA decides to grant a Comprehensive Permit, to impose sufficient restrictions to ensure that the BoS's concerns will be adequately addressed). This letter supplements the BoS's letter of April 6 to the ZBA.

In the interests of brevity, we will not endeavor to detail the litany of reports and other documents prepared by or for the Developer or by outside consultants engaged by the ZBA to perform peer review, nor the information and feedback provided to the ZBA by other Town entities, such as the Planning Board and School Committee. For present purposes, suffice it to say that, taking into account the totality of the foregoing, particularly the peer reviews procured by the ZBA and feedback from other Town entities, the BoS is even more convinced now than it was in April that the Project gives rise to such major local concerns that the Comprehensive Permit should be denied (or, in the alternative if one is granted, heavily conditioned).

The major local concerns highlighted by the hearing process and shared by the BoS include health, safety, infrastructure, and environmental concerns, most notably the following (in no particular order):

- Traffic Safety and Congestion on Route 20 and Sibley Road
- Pedestrian Safety<sup>1</sup>
- Sewage and Wastewater Treatment
- Stormwater Management<sup>2</sup>

As you and the Developer are aware, there is a presumption under state law in favor of satisfying affordable housing needs by permitting 40B projects notwithstanding the waivers or violations of local zoning and other laws that they would otherwise require. However, you and the Developer

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<sup>1</sup> This especially includes (without limitation) the safety of schoolchildren taking school buses to and from school, discussed in more detail in the letter you received from the Chair of the School Committee, disputing the developer's contention that the School Committee and school administration were fine with students being picked up and dropped off on Boston Post Road.

<sup>2</sup> The importance of both sewage and wastewater treatment and stormwater management are high in any circumstances but all the more in this case, given the Project's close proximity to the City of Cambridge's supply of drinking water. Any threat to this water supply could have not just dire consequences for the City of Cambridge but indirect negative consequences for Weston and other towns, especially those relying on the MWRA for drinking water.

are also well aware that this presumption is a rebuttable one, and more specifically, it may be rebutted by local concerns outweighing such affordable housing needs. The local concerns described broadly above and in much more detail elsewhere clearly outweigh the affordable housing need that might be satisfied by this Project, especially in the aggregate.

The Developer asserts that many of the issues and problems highlighted in the hearing process are not local concerns that can be deemed to outweigh the need for affordable housing nor that can justify the ZBA's denial of a Comprehensive Permit, because they involve matters that at some point would need to be approved and permitted by other entities, at the state level or otherwise. The BoS disagrees with this assertion, for several reasons:

- First, the town's health, safety, infrastructure, and environment are inherently concerns of the town and its officials (including the BoS and ZBA), even if they might also be concerns of other entities and officials.
- Second, where other entities and officials outside the town have concern or jurisdiction over specific elements of this Project (or any other), they are typically looking at that concern in a vacuum, without the same due regard for the totality of these elements that the town and its officials have.<sup>3</sup>
- Third, the Developer's assertion is overly broad in any event. As one example, whatever might be said about the state's potential jurisdiction and input regarding Route 20, the same cannot be said for Sibley Road itself, which remains a distinctly local roadway.

The BoS has been tentatively amenable to the suggestion that a signification reduction in the scope of the Project might allow it to proceed without giving rise to such substantial local concerns as highlighted above. This is one reason that the BoS sought a site analysis from the Planning Board. However, as that site analysis concludes, there does not appear to be capacity at this site for any development more than nominally greater than what exists there already.

As noted above, the Bos believes that the local concerns highlighted above are sufficient grounds to deny the Comprehensive Permit for this Project. If instead the ZBA decides to grant a Comprehensive Permit, we encourage the ZBA to condition it heavily, to make sure that these local concerns are being addressed sufficiently.

In this regard, we particularly highlight comments in some of the peer reviews that such conditions need to take into account and guard against possibilities of failure and other outcomes that less benign than what the Developer represents will occur. The Developer has represented on numerous occasions that, even if certain waivers and accommodations are granted, things will work out fine: for example, that their plan will not have any adverse effects on the City of Cambridge water supply, on the surrounding properties, on traffic or pedestrian safety, or on

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<sup>3</sup> Accordingly, an outside entity or official might be more willing to grant a waiver or accommodation to the Project under the impression that it is just an isolated instance, without appreciating all the other waivers and accommodations that are being sought from others with respect to other aspects of the Project. In the end, the totality of waivers and accommodations becomes greater than the sum of the parts (much as one small dent on a car might seem inconsequential but multiple dents can have dramatic effects and render the car a wreck).

Weston's stormwater management capacity. However, it is one thing to make these representations in a presentation, but if they are not borne out in fact and any of these aversive outcomes come to pass, it should not be the town that bears the brunt of that but the Developer. Accordingly, if a Comprehensive Permit is granted (contrary to our stated preference), we encourage the ZBA to include sufficient conditions to protect the town and its residents, including prospective residents of the project. This should include sureties to protect against certain damages and consequences – and if the Developer is so sure of the public representations that these specified problems will not arise, the Developer should be willing and able to provide such sureties.<sup>4</sup>

The BoS obviously wants the ZBA to abide by state law in rendering its decision, with the guidance of town counsel. Nonetheless, to the extent state law allows (or is unclear), the BoS encourages the ZBA to be diligent and assertive in safeguarding the town's interests and the substantial local concerns highlighted above (as well as other local concerns that may be identified but are not highlighted herein). More specifically, the ZBA should not be concerned that it will somehow be blamed or culpable if with town counsel's guidance it renders a decision that it believes is legally permissible and defensible but that winds up being contested by the Developer or anyone else, in court or otherwise. The BoS and others are quite willing to support the ZBA and the town in defending the town's interests and local concerns.

None of the foregoing impugns the BoS's commitment to increasing affordable housing, as called for by the Housing Production Plan ("HPP") approved and submitted to the state by the BoS, and as evidenced by the BoS's support for other projects in town (including one at 133 Boston Post Road) that do more to meet the town's affordable housing needs but without giving rise to the serious local concerns highlighted above.

Finally, we offer our sincere thanks to the ZBA for the time, attention, and diligence you have given to this difficult and complicated matter.

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<sup>4</sup> As an additional example, the Developer proposes to use a wastewater treatment system that is essentially untested in similar residential complexes. The Developer and the system's engineer (Stantec) insist that this system will work, but even if Weston is to be a guinea pig for such an installation, it should not have to bear the consequences if the system turns out not to work as well as promised. Accordingly, the Developer should have to post sureties against the consequences of the system failing and the Project becoming uninhabitable as a result, including for the relocation of all residents and the continued education of resident schoolchildren in Weston schools (either per relocation within Weston or per other arrangements with the School Committee, the idea being that students and families should not suffer because the Developer and engineer were wrong about the success of this relatively untested system.

Likewise (or perhaps even more importantly), an additional condition should be that the Developer (for all successors) explicitly disavows any right, claim, or necessity to hook the Project into a sewer line, even if its proposed system fails and the Project would otherwise be uninhabitable. If this Project were ever permitted to hook into a sewer line, it could have far-reaching negative consequences for planning and zoning throughout Weston, which will not be detailed here but should be recognized as an outcome to be avoided at all costs.

**Gaumond, Leon**

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**From:** VanderClock, Donna <VanderClock.D@westonmass.org>  
**Sent:** Friday, September 8, 2017 1:42 PM  
**To:** 'Li, Winifred I.'; 'duckfish27@verizon.net'; slj larocque  
**Cc:** Jonathan Silverstein (JSilverstein@k-plaw.com); Ilana Quirk; Aiu, Imaikalani; Stockman, Noreen; Field, John F.; Houston, Christopher; Gillespie, Doug; Boshart, Harvey; Lauren F. Goldberg  
**Subject:** FW: Boston Post Road Review  
**Attachments:** 104 Boston Post Road Rev3.DOCX

ZBA Members,

Please see the attached follow-up review from Chessia Consulting.

Thank you..

Donna S. VanderClock  
 Town Manager  
 Town of Weston  
 P.O. Box 378  
 Weston, MA 02493  
 781-786-5020  
 781-786-5029 (fax)  
[www.weston.org](http://www.weston.org) - sign up for email or text Town news  
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**From:** John Chessia [<mailto:jchessia@chessia.com>]  
**Sent:** Friday, September 08, 2017 1:21 PM  
**To:** VanderClock, Donna  
**Subject:** Boston Post Road Review

Hi Donna,

Attached is my review, I was informed that you would distribute this to the appropriate parties.

Let me know if you have any questions or want to discuss my comments.

Thank you and have a great weekend.

John C. Chessia, PE  
 Chessia Consulting Services, LLC  
 215 First Parish Road  
 Scituate, MA 02066  
 781 378-1400  
 781 424-9407 cell  
[jchessia@chessia.com](mailto:jchessia@chessia.com)



## Chessia Consulting Services LLC



September 11, 2017

Hon. Christopher E. Houston  
Weston Board of Selectmen  
PO Box 378  
Weston, MA 02493

RE: Professional Engineering Services  
Supplemental Design Review  
104 Boston Post Road/Comprehensive Permit

Dear Chairman Houston and Members of the Board:

In response to your request and in accordance with my proposal dated August 15, 2017, Chessia Consulting Services, LLC has reviewed the above referenced project revisions relative to a Comprehensive Permit Application to the Weston Zoning Board of Appeals. In particular, I have reviewed the above referenced project for Compliance with Stormwater Regulations promulgated by DEP and the Town of Weston. I previously reviewed aspects of the conceptual wastewater disposal plan. There are no changes to the wastewater treatment and disposal system in the document received. In addition, the design was reviewed for conformance to general engineering design standards.

The data reviewed included the following information:

### Plans Entitled:

- "Site Development Plans for Stony Brook Weston 104 Boston Post Road Weston, MA" dated March 28, 2017 consisting of 17 Sheets prepared by Allen & Major Associates, Inc. Sheets 1, C- 2A, C-3A, and D-5 were revised 6-15-17; Sheet C-5A was revised 7-28-17; and Sheets C-3B, C-5B and D-4 were revised 8-11-17. (Plans) Portions of the data reviewed were on the FTP site.
- "Stony Brook Weston 104 Boston Post Road Weston, MA" dated November 18, 2016 prepared by Allen & Major Associates, Inc. and SMOOK Architecture and Urban Design consisting of 17 sheets of plans.(Initial Submittal)

### Supporting Data:

- "40B Residential Housing Development 104 Boston Post Road Weston, MA Drainage Report" issued April 18, 2017 last revised August 11, 2017, prepared by Allen & Major Associates, Inc. (Report)
- Miscellaneous correspondence including:
  - Nitsch Engineering review letter dated May 15, 2017.
  - Memo to ZBA from Town of Weston Engineering Department.

- City of Cambridge Supplemental Response to 104 Stony Brook LLC's G.L.c. 40B Comprehensive Permit Application for its Proposed Project at 104 Boston Post Road dated May 22, 2017.
- Conceptual Design Executive Summary for Proposed Wastewater Treatment and Evaporation Facilities 104 Stony Brook LLC Stony Brook Apartments 104 Boston Post Road Weston, Massachusetts 02439, prepared by Stantec Consulting Services, Inc.
- Comment letter from Karen Sebastian, LLC Landscape Architecture dated May 18, 2017.
- Allen & Major response letters dated May 16 and 18, 2017 to City of Cambridge Water Department and Weston Zoning Board of Appeals respectively, with attachments.
- Stormwater Bylaw/Regulations Waiver Request letter prepared by Allen & Major Associates, Inc. dated August 11, 2017.
- 8/8/2017 Clarification/Supplemental Information for waivers requested from local regulations regarding Offstreet Parking and Stormwater.
- Allen & Major response letter dated July 6, 2017 to Weston Zoning Board of Appeals response to Chessia Consulting Services peer review dated June 14, 2017. (Response)
- Letter from Stantec Consulting Services, Inc. dated July 14, 2017 regarding Public Safety Considerations for the Wastewater Treatment Facility and Evaporators.

There was an interim submission dated 7-28-17 that was not received by Chessia Consulting Services and has not been reviewed. I have viewed some of the data available on the Town's website as it is the latest complete plan set. It is assumed that there was also some correspondence associated with this filing that has not been included in the above list of data.

I have added new comments below my prior comments in underline type following either my supplemental comments in *italic type* or my initial comments where appropriate. As the only modifications relate to the stormwater system other comments in my initial review remain as they were not addressed. I have addressed waiver requests in the body of this letter under the appropriate sections.

I visited the periphery of the site (Boston Post Road and Sibley Road) on June 13, 2017 to observe existing conditions.

I note that the north arrow on the Cover Sheet of the Plans differs from the orientation on the other sheets. I have used the general plan sheet north for orientation as that appears to be correct based on a comparison of MassGIS mapping. As you know, the site is bordered on the northwest and the northeast by Boston Post Road and Sibley Road and is bordered on the southern side by the Stony Brook Reservoir. Stony Brook Reservoir is a Public Surface Water Supply for the City of Cambridge. Southwest and southeast of the locus is land owned by the City of Cambridge. Stony Brook flows through City of Cambridge property southeast of the site. North of the locus is the interchange of Route

95 and Route 20. There are two parcels between Sibley Road and the interchange that are developed with commercial uses. There were many cars parked along Sibley Road at the time of my site walk. These cars were employees or customers for the businesses located on Sibley Road. Cars were parked perpendicular to the curb for much of the roadway.

The site is currently developed with a professional building that is housed in a former house that has been identified as a historic structure in the Town. There is also a driveway and parking associated with the structure. The majority of the site is wooded with two high points one to the west and the other to the south of the existing building. Runoff would flow to Boston Post Road to the northwest, Sibley Road to the northeast and City of Cambridge property to the east, west and south. There are wetland resources including Bordering Vegetated Wetlands (BVW) and Riverfront to the southeast, and the reservoir with potentially other BVW to the south. MassGIS plans indicate that there are wetlands located along the brook that are not indicated on the plans. The plans do not identify if these wetland resource areas have been confirmed by the Conservation Commission. If not any change in the location of the resource areas could impact the proposed plans.

*It is my understanding that the wetland resource areas have been approved but that there is an appeal related to historic mill complex provisions of the Riverfront Act.*

No further comment required.

The site is identified as Charlton-Hollis-Rock outcrop complex and Hollis-Rock outcrop-Charlton complex soils with the developed portion identified as Udorthents-Urban land complex. The divide between Charlton-Hollis-Rock outcrop complex and Hollis-Rock outcrop-Charlton complex soils crosses the site in a northeast to southwest line with approximately 2/3 of the parcel consisting of the Hollis-Rock outcrop-Charlton complex soils. Predominantly Charlton soils are more permeable and have a greater depth to groundwater; these are identified on the south east side of the site. Predominantly Hollis soils are very shallow to ledge and have very slow permeability.

The data provided, to date, does not include any on-site test results as would and should be standard practice to determine soil suitability for both wastewater and stormwater disposal. In this case there is no municipal sewer available to the site. Soil testing should be performed to confirm soil conditions and identify groundwater elevations based on Soil Evaluation methods consistent with State DEP requirements

*Some testing was performed; however the locations of the tests were in disturbed areas and they were only borings not soil evaluations as required under the DEP Handbook and WSR. Refusal (ledge) was encountered approximately two feet below grade at the locations tested. Soil testing data provided remains insufficient for the site.*

Comment remains, it is now proposed to have a subsurface detention system only no recharge is proposed, however detention systems should also account for groundwater impacts if any connection to the system is proposed. The Board could include a condition to estimate groundwater flow if a connection is proposed.

The project proposes an apartment building with eight stories:

- Five stories of residential units;
- Two partially below grade garage stories;
- A wastewater treatment plant in a portion of the lower level garage.

No data on the wastewater treatment plant is included in the plans submitted, as that is not a permit the comprehensive permit would include; however, importantly to the proposed project, it is unclear how the wastewater treatment plant and associated vents, steam stacks, etc. would be *located* in the building and what impact the location of the plant would have on the proposed 150 residential units and their occupants as to noise, odor, moisture, vibration and pathogens that may be generated.

*Not addressed, comment remains.*

Not addressed, comment remains. A waiver from the Board of Health requirements has been requested as the system would exceed the size allowed for a septic system and a wastewater treatment plant would be required. No discharge of treated effluent to the ground or surface waters is proposed as the system would be designed to heat effluent for disposal to the air. It would still be a wastewater treatment plant in a Zone A to a surface water supply and within a residential building, neither of which would be allowed under state regulations for wastewater treatment plants. I recommend that the Board consider public safety aspects of this proposal in particular in the event of a system failure. A plan indication the location of the wastewater treatment plant within the building has been provided. It is proposed to be in the southern part of the building adjacent to the emergency access roadway. I have not been provided with any other details on the treatment plant. The Board should consider a condition that DEP document that the proposed project would be allowed in the Zone A of a surface water supply contrary to published guidance on the location of wastewater treatment plants. The Board should also condition that detailed contingency plans be developed for system failures, leaks, repair and replacement of components, etc.

The building would have a footprint, including parking garage and courtyard areas, of 46,034 square feet based on the data provided. The area proposed to be developed is approximately 1.7 acres of the 2.09 acre property. There is an exterior area around the building that would provide for the location of drainage pipes below the surface and for emergency access on the surface.

#### **Comments:**

The current revision only changes the stormwater management system from an infiltration system to a detention system. Some supporting data has been provided on other issues as addressed below:

#### **General Review Criteria:**

##### **General Design Comments:**

- I have reviewed the plans for general design issues based on the data provided.

## Dep Stormwater Management Regulations/Town of Weston Stormwater Regulations:

- The Report asserts that the project would comply with both DEP Stormwater Standards and the Town of Weston Stormwater Bylaw and Stormwater Regulations (WSR). I have reviewed the data supplied by the Applicant for conformance with the DEP Stormwater Handbook, in particular Volumes 1 for general data on the Stormwater Standards and Volume 3 "Documenting Compliance with the Massachusetts Stormwater Standards". Specific BMP's were also reviewed in Volume 2 Chapter 2 for construction and maintenance requirements and Chapter 1 for systems to use in specific areas, specifically associated with Standard 6. I have used DEP's 10 Standards as the basis for review. If the DEP Standards do not apply due to work being performed outside of a jurisdictional area (Riverfront or Wetlands Buffer Zone) the Weston Regulations would also need to be waived for the project to proceed.

The current proposal states that the design complies with all DEP Regulations except for Standard 3 Recharge. Waivers from the Bylaw have been requested. The waiver request claims that the Bylaw is not applicable since the project is designed in compliance with the Massachusetts DEP Stormwater Regulations. As noted in my comments this is incorrect as there are aspects of the design that would not comply in addition to the listed non-compliance with recharge under Standard 3. The project does not propose a connection to the municipal system and there would be no oversight under the MS4 program of the National Pollution Discharge Elimination System (NPDES) by the EPA or DEP for the site under this program as specified in the 8-8-17 waiver request and the 7-6-17 response to my prior comments. The MS4 requirements are under a General Permit implemented and enforced by the Town, a private developer is typically required to comply with Town Bylaws that have been enacted for the Town to meet MS4 requirements. A NPDES Construction Permit will be required to be filed with the EPA; however that permit only addresses construction phase work. The local Bylaw would provide protection that is not otherwise provided under DEP as the site is proposed to be outside of DEP wetlands jurisdiction. DEP could regulate the stormwater discharge under 314 CMR 3.00; however, this is unlikely for discharges of the size proposed.

In summary, the proposed use is not an allowed use in a Zone A of a Public Surface Water Supply.

*Not addressed comment remains refer to the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed comment remains refer to the DEP Handbook Volume 1 Table CA 2: Standard 6. The revised submittal does state that the design would not comply with Standard 3 Recharge but ignores requirements under Standard 6. As noted in the Response the site would not be subject to DEP review as it is outside of the jurisdiction and waiver of the Weston Bylaw would result in no oversight of

stormwater by the Town or the State unless conditioned otherwise in the Comprehensive Permit.

#### **Wastewater Issues:**

- Minimal data on wastewater disposal has been provided. As no municipal sewer service is available other means of disposal will be required. Based on submitted data, a Wastewater Treatment Plant with a combination of evaporators for air disposal of steam and undetermined off-site location for disposal of residual sludge and solids is proposed. Sludge and solids would be retained in on-site tankage for periodic pumping. I have listed appropriate data from Massachusetts regulations and guidance for wastewater treatment systems.

In summary, the proposed use is not an allowed use in a Zone A of a Public Surface Water Supply.

*Not addressed comment remains refer to 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.*

Not addressed comment remains refer to 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply. The Board should consider a condition that DEP document that the proposed project would be allowed in the Zone A of a surface water supply contrary to published guidance on the location of wastewater treatment plants.

#### **General Design Comments:**

1. It is proposed to have a cut ledge face starting at the property line in several locations along the south west and southerly sides of the site. A construction easement or license from the abutting property owner (Book 1696 page 404, owned by the City of Cambridge according to the Plans) would be required to implement the plan or more likely locating the top of the ledge cut further into the site to provide construction space.

*Not addressed comment remains.*

Not addressed comment remains, the Board could consider a condition that a detail survey and design of the slope be provided, including location of significant trees that would be impacted by construction to demonstrate on work is performed beyond the property limits.

No information has been provided, to date, by the Applicant to document that the abutting property owner (the City of Cambridge or the municipal agency having custody and control) has agreed to provide such an easement or license.

*Not addressed comment remains.*

Not addressed comment remains, the Board could consider a condition that a detail survey and design of the slope be provided, including location of significant

trees that would be impacted by construction to demonstrate no work would be performed beyond the property limits.

Based on Natural Resource Conservation Service (NRCS) data soil could be from 12-65+ inches in depth. The plans only identify one area of exposed ledge at the westerly side of the Boston Post Road access drive to the existing building. The plans identify the survey as an "on-the-ground" survey so any other areas of exposed ledge would have been seen by the field crew and identified on the plans. The plans also indicate that the entire area proposed for the steep cut ledge face along the property line is wooded, which indicates the presence of soil over the ledge. During my visit to the periphery of the site I noted additional ledge that was not observed by the surveyor, but was obvious from the nearby street. This area is east of the existing building and along the south side of the pavement for the access and parking areas.

*Not addressed comment remains.*

Not addressed comment remains, the Board could consider a condition that a detail survey of ledge depth, in particular near the property limits be provided, and to demonstrate no work would be performed beyond the property limits.

No soil testing, as is standard engineering practice and a requirement of the Town of Weston Stormwater Regulations, has been performed. The ledge in the area below the soil may also be weathered and not suitable for a 4' vertical to 1' horizontal slope or other steep cut slopes proposed. Any existing soil over the ledge would not be stable at a 4' vertical to 1' horizontal slope, resulting in impacts over the property line. The data provided should document soil and ledge conditions at critical points based on on-site testing data. It is unclear how steep slope would be protected as a high steep created cut slope as proposed would be a safety hazard if not properly fenced. There is no room for a fence as the cut slope is at the property line. The area visible from the street is mostly wooded, except around the existing building, some areas are newer growth but many large mature trees exist on the site. The size and extent of the trees and undergrowth observed is not typical of an area with no soil over ledge.

*The response indicates that some testing was performed and a location plan and boring logs were on the Town's FTP site. I note that borings, not soil evaluations were performed. All testing was in the disturbed area of the existing driveway, two in areas of obvious prior excavation, one B-3 is in an area that appears to be close to natural grades. Refusal (ledge) was encountered approximately two feet below grade at the location(s) tested. Soil testing data provided remains insufficient for the site. Testing should be performed consistent with DEP Handbook and WSR requirements, which would include soil evaluations at the location and depth of proposed stormwater infiltrations systems.*

Comment remains; I recommend that the Board not waive soil testing requirements for the project as listed in the Town of Weston Stormwater & Erosion Control Regulations. Although it is no longer proposed to provide infiltration, soil testing will identify ledge depth in areas of the site where stormwater systems are proposed and may identify areas with soils suitable for

infiltration. If suitable soils for infiltration are found the site should be designed to include infiltration. Testing should be performed prior to excavation of the site consistent with DEP and Town of Weston requirements.

2. Revised building plans and elevations based on the new footprint should be provided, including general plan and elevation views for the wastewater treatment plant and associated stacks, vents, etc. Although final design is not required at this stage, safety impacts from steam, odors, moisture and potential mold issues with a below grade wastewater treatment within a residential structure should be assessed, along with potential noise and vibration issues.

*Not addressed comment remains, the location, depth of excavation, etc. for the wastewater treatment plant is a critical design feature.*

Based on the data provided and reviewed on the Weston website there is a conflict between the parking and the wastewater treatment plant location that has not been clarified. It appears that the wastewater treatment plant would be in the southern part of the building on the lower parking level. Based on the plans the elevation of the floor is 104 for the lower level. The prior plan dated 7-28-17 includes a parking plan but proposed parking conflicts with the location of the wastewater treatment plant. This may have been addressed in other documentation but the data available to Chessia Consulting Services does not address this conflict. I recommend that the plans include more data on the wastewater treatment plant general component location, chimneys, elevations, etc. as it is a critical design feature. This data should be provided prior to approval as it affects public safety for the residents and is a crucial aspect of the project. The Board could include this as a condition for the project.

The building elevations should also address ventilation of the underground garage areas. It is unclear if there are openings at areas where grades are suitable. Collection of exhaust fumes within the garage would be a health issue for building occupants, if the garage is not properly vented.

*Not addressed comment remains.*

The Response indicates that the data has been provided to the Board but the data was not found on the website and was not in the hard copy data provided to Chessia Consulting Services. A sketch plan indicating the outline of the wastewater treatment plant location within the building has been provided.

3. Sheets C-3A and C-3B indicate a pipe labeled UD, identified as underdrain in the legend, around a portion of the building on the east, south and part of the west and north sides. Elevations of this pipe and the discharge location(s) should be identified together with quantification of the flow.

*Not addressed comment remains, as noted, the depth of excavation for the wastewater treatment plant under the garages becomes more critical with the proposal to attempt to infiltrate water into the ledge. The bottom of the subsurface drainage system at the low end is EL 99.45, the lower garage floor is EL 104, and the wastewater treatment plant floor would need to be below the*



*bottom of the subsurface system in a confined ledge excavation that would likely fill with water.*

Not addressed, the current design does not propose infiltration; however, groundwater would collect in the ledge excavation for the building foundation as noted above. The plans should identify where the UD pipes will discharge and quantify the flow. The Response indicates that this data will be provided later. It should be accepted that groundwater will need to be addressed and a discharge location determined. The plans identify UD pipes for groundwater but do not include a discharge location. The Board should include a condition that the design of any groundwater collection system be provided. In addition, it should be conditioned that any discharge not flow into Sibley Road or any public or private way or access drive.

Underdrains collect groundwater and would typically flow for several months in late winter-through spring depending on snow melt and rainfall conditions. No detail of the underdrain has been included in the plans. The plans do not detail a connection for the underdrain to the stormwater system and the elevations would not be suitable for connection to the stormwater system in some locations based on proposed site grading. Any and all discharge location(s) should be indicated. The underdrain should **not** discharge to Sibley Road, as presently shown on the plans, because groundwater discharge to Sibley Road would result in safety concerns with ice forming in the roadway as well as potential erosion of the steep slope at the low point in the east corner of the building.

*Not addressed comment remains.*

Not addressed the plans should identify the proposed discharge location of the underdrain. As noted this could be a safety issue as flow into Sibley Road would create an icing situation in the winter. It could be conditioned that groundwater discharge is not allowed to flow into any street and if connected to the stormwater system that it be quantified and added to the discharge rates.

If it is proposed to discharge groundwater to the wastewater treatment plant the flow calculations would need to account for the flow if it could be permitted as part of the plan design. If it is proposed to discharge groundwater to the stormwater system that flow should also be quantified. As noted above, the proposed elevations do not appear suitable to connect the underdrain to the stormwater system and pumping would be required.

*Not addressed comment remains.*

Not addressed comment remains, I recommend that the Board consider a condition the groundwater not be discharged to the wastewater treatment system.

4. No soil testing as required in the Weston Stormwater Regulations (page 4 3. d. iii. 5.) has been performed and I recommend that this requirement not be waived because many of the design assumptions rely on certain soil conditions. If differing conditions exist, the assumptions would not be valid and the design would not function as proposed. Soil testing could also impact the existing runoff calculations if soils differ from that assumed. Soil testing is standard practice to

develop site designs and should be required here. Determination of soil conditions for runoff, groundwater elevations and wastewater disposal in areas without access to a sanitary sewer system is typically a first step in evaluating the suitability of a site for development.

*The response indicates that some testing was performed and a location plan and boring logs were on the Town's FTP site. I note that borings, not soil evaluations as required under the WSR were performed. The purpose of soil evaluations, rather than borings, is to observe the soil profile and visually identify conditions and soil characteristics. Soil testing establishes soil classifications and elevations together with evidence of groundwater, including visual observations of weeping, redox in the soil, etc. Borings establish soil conditions for other purposes such as foundation design, etc. All testing was in the existing driveway, two in areas of obvious prior excavation, one B-3 appears to be closer to unaltered natural grades. Refusal (ledge) was encountered approximately two feet below grade at the location(s) tested. Soil testing data provided remains insufficient to satisfy the local stormwater regulations. It is important not to waive this requirement because the ability of the site to infiltrate runoff and to identify existing groundwater elevations is based on existing soil conditions.*

Comment remains; I recommend that the Board not waive soil testing requirements for the project as listed in the Town of Weston Stormwater & Erosion Control Regulations. Although it is no longer proposed to provide infiltration soil testing will identify ledge depth in areas of the site where stormwater systems are proposed and may identify areas with soils suitable for infiltration. Testing should be performed prior to excavation of the site consistent with DEP requirements.

5. It is proposed to install "NDS Tufftrack Grass Pavers" around the building to provide emergency access. The design has an 8.3% grade; the website data on the product specifies a 6% maximum grade for emergency vehicle use. The significance of this grade and the close proximity of the emergency access to the area should be evaluated by the Fire Department and the availability of equipment to fight a fire that occurs on the reservoir side of the building should be evaluated, both as to Town and mutual aid equipment. The Town may also want to have a professional fire expert provide a technical report on these issues.

*Not addressed comment remains.*

The Response indicates that the Fire Department has accepted the design, although the manufacturer does not recommend the provided slope for emergency access for the system proposed. The Board could condition that the plans be revised to be consistent with the NDS Tufftrack specifications for emergency use grades.

6. The depth of soil suitable for vegetation growth is only 1.5" and the website notes that full irrigation is required to maintain vegetation. As proposed, the design detail indicates crushed stone on compacted native soils. The native soils have not been determined except through published data. Depending on the soil used under the crushed stone at the slopes proposed, most rainfall will soak through the

1.5" of planting soil into the crushed stone and follow the compacted soils to the lowest point and then break out to the surface as a weep since the grading of this area is relatively steep and in most areas the grass pavers are confined between the ledge and building foundation. Creating a new point of water discharge would create soil instability issues on steep slopes or icing issues if discharge to a roadway area.

*Not addressed comment remains. I note that the details for the grass pavers have not been changed to reflect the proposed design of the subsurface pipe stormwater system. More rainfall may flow through the paver system and then down into the stone around the subsurface pipe system. This flow would discharge through the subsurface system outlet pipe. In some cases there is a significant depth of soil between the subsurface pipe and stone system that may inhibit downward flow. The fill material between the subsurface system and the paver systems is not specified. The grass paver detail specifies "compact native soils" and the permeable concrete paver detail specifies "compact native materials" under the systems. Neither material would be present over the subsurface pipe system as the area would be fill. In some areas the cover over the pipe would be close to the base of the grass paver cross section and in other areas there is over 15 feet of between the top of the system and finish grades.*

As currently designed, the stormwater detention system would be surrounded by an impervious barrier and only flow collected in inlets (catch basins or roof/yard drains would enter the system. My initial comment still applies; the design will result in weeps at low points where the grass pave system meets the roadway or a vegetated slope area. Flow would in some cases continue into the permeable paver system reservoir stone and weep at the junction of this system with the roadway. Refer to comment 7. below. The Response addresses the driveway pavers not the grass pave system.

7. The plans also specify Permeable Pavers for the upper garage access road and the lower access road leading to the perimeter grass paver system. The detail for these areas is **not** fully consistent with the DEP Handbook (Volume 2). The inconsistencies are: 1) choker course under sand bedding not reservoir course as indicated, 2) filter course (called subbase course) should be 12 inch minimum thickness and under choker course, 3) no filter blanket under filter course, 4) no reservoir course or subdrains under filter blanket. The reservoir course would be above the native materials. No soil testing to determine the suitability of the native materials has been performed.

*Not addressed comment remains. Furthermore, the recent soil testing performed, while insufficient in scope, confirmed that the soils that have been tested are not suitable for the type of stormwater system because the bottom of the system would not be two feet above the existing bedrock in some locations.*

Above comment on the cross section design has been addressed in the 7-28-17 plan set.

It appears that the intent is to infiltrate runoff through the joints of the pavers to a crushed stone reservoir and then a filter layer of bank gravel and then to native

materials. For the upper garage access native materials are likely to be ledge as this is the only area where some exposed ledge was surveyed. In addition, the upper access roadway is proposed to be in 7 to 9 feet of cut compared to existing grades. The lower access is in cuts of 0 to 3 feet. As designed the flow of runoff under the grass pave system would likely flow into the constructed subgrade of the pervious paver system and then weep out at Sibley Road. The DEP Handbook restricts use of this type of system in the Zone A for a surface water supply, within 20 feet of a cellar foundation, within 10 feet of a property line, for slopes over 5% (easterly drive only), in areas with high bedrock and the bottom should be below the frost line and be a minimum of two feet above seasonal high ground water.

*Not addressed comment remains. As noted above, depending on the actual elevations and permeability of fill materials, more stormwater runoff may flow directly into the stone around the pipe and into the perforations, with the result that the ultimate discharge would be at the proposed outlet rather than weeping into Sibley Road. This would be an improvement relative to safety and icing concerns in Sibley Road. More data on soil conditions, backfill materials, compaction of underlying soils, etc. is required to determine how the system would function.*

Infiltration is no longer proposed so my initial comment would apply. The design cross section, but not grading, was modified to comply with the DEP Handbook. As identified previously the slope would result in runoff flow in the stone and gravel weeping into Sibley Road creating a potential icing or frost heave condition. The detail has been revised, but the setbacks and other aspects have not been addressed based on the plans.

The combination of NDS Tufftrack Grass Pavers shown on Sheet D-2 and Permeable Precast Concrete Pavers shown on Sheet D-1 are not a viable design and could result in safety issues in Sibley Road due to water weeping into the street with icing in the winter.

*Partially addressed, the revised design would likely result in more downward flow through the stone around the subsurface detention pipe and less weeping into Sibley Road. More detail on the depths and types of soil or other materials used under the system is required. In addition data on existing soil conditions, and compaction of soils should be specified.*

As noted infiltration is no longer proposed and my initial comment would apply and has not been addressed. The design would result in runoff weeping into Sibley Road creating a potential icing or frost heave condition. It is proposed to heat the driveway to melt snow which would exacerbate this condition.

8. The proposed building would be as close as 3 feet from the right of way (property line) at Sibley Road. The top of the building would be EL 189 based on the first floor elevation and the building plans. The grades along Sibley Road at the street in front of the building vary from EL 92 at the east end of the building to EL 107 on the west side of the lower entrance. A mass of this height that close to the road, with the roadway on the north side of the building would have shading

impacts to Sibley Road with increased icing as the building will block Sibley Road from the sun in winter. This would result in more deicing chemicals being required in the roadway which would impact the water supply.

*Not addressed comment remains.*

Not addressed comment remains; the Response does not address this concern. As noted in this review the feasibility of infiltration in the pervious pavers and grass pave system is questionable given reported soil conditions and design data, and the designer recognizing this has not taken any infiltration credit in these systems.

9. Traffic will access the locus from Sibley Road and traffic on Sibley Road certainly will greatly increase as a result of the project and the location of the building will result in safety issues in this public way. Also, the impact of the steam generated at the locus by the proposed evaporation system should be evaluated to see if it will result in moisture falling on Sibley Road – and on Boston Post Road, creating dangerous (and often unexpected) icing on these ways in cold conditions, even if there is no precipitation, catching motorists (and any pedestrians outside of the building) off guard.

*Not addressed comment remains.*

Partially addressed; the Response indicates that the project would be under MassDOT jurisdiction. Based on my review Boston Post Road is a state numbered route but is not labeled as a State Highway on the plans, Sibley Road is a local Town owned roadway. The MassDOT may review traffic impacts associated with Boston Post Road and the interchange of Route 128 but would not review issues on Sibley Road. Data on the steam from the system has been provided. I recommend that data from other existing similar facilities be provided that demonstrates how the system work function similar conditions.

10. The plans do not indicate how garage runoff from melting snow and rainwater dripping or any wind-blown rain from open window areas or wall openings, would be collected and discharged. Discharge of flow from building floor drains is not allowed into an exterior separate storm sewer system under the plumbing code 248 CMR 10.00 Furthermore, 248 CMR 10.15 e specifies that parking garages are part of the sanitary sewer system. The load from the parking garages should be factored into the wastewater treatment plant flow calculations.

*Not addressed comment remains.*

The Response indicates that the floor drains will discharge to an oil-water separator and then to the private wastewater disposal system. The Board should include a condition that this flow be included in the design of the wastewater treatment and disposal system and approved by DEP. The response also states that the connection would be to a sewer system. A sewer system is not allowed in the Zone A for a surface water supply so this would not be allowed under state regulations. The Stantec response within the letter is that the garage flow will be collected in a tight tank for offsite removal. Under 314 CMR 18.05 (3) holding tanks (tight tanks) are not allowed in the Zone A of a surface water supply. It does not appear that either solution is viable under the Regulations. The Board of

Health would likely be required to approve the tight tank if proposed and would not be able to issue this permit due to the location of the tank.

### Dep Stormwater Management Regulations/Town of Weston Stormwater Regulations:

The DEP Stormwater Management Regulations consist of ten standards. This section of the correspondence lists the standards and identifies whether the submittal complies, does not comply or if additional information is required to demonstrate compliance. The Weston Stormwater Regulations reference the DEP Regulations with specific variations that are identified within the DEP Standard where they vary. In addition, the WSR have specific data submittal requirements. Where data is incomplete under the WSR it is noted under the most appropriate DEP Standard. This project would require a Major Permit under the WSR.

Critically, this entire site is located in the Zone A of a Surface Water Supply and under the DEP Handbook Volume 1 Table CA 2: Standard 6, **no stormwater BMP's unless essential to operation of a public water supply system** would be allowed on this site.

*Not addressed comment remains.*

As noted a waiver from the Town of Weston Stormwater Bylaw has been requested. Although the Response claims that there would be state and federal oversight of the project under NPDES MS4 Regulations that is incorrect, the MS4 Regulations apply to the Town's stormwater system not this private development project. By working outside of the wetland buffer and riverfront area no filing with DEP would be required and there would be no DEP oversight of stormwater issues.

As a result, based upon DEP Handbook requirements since the proposed project is not one that is essential to a public water supply system, the proposed building and its stormwater management systems should **not** be constructed at this location.

*Not addressed comment remains. Volume 1 Table CA 2: Standard 6, which provides: **no stormwater BMP's unless essential to operation of a public water supply system** would be allowed on this site.*

As noted a waiver from the Town of Weston Stormwater Bylaw has been requested. Although the Response claims that there would be state and federal oversight of the project under NPDES MS4 Regulations that is incorrect, the MS4 Regulations apply to the Town's stormwater system not this private development project. By working outside of the wetland buffer and riverfront area no filing with DEP would be required and there would be no DEP oversight of stormwater issues.

There are no allowed BMP's at the locus as it is in the Zone A and therefore there the proposed stormwater system would not be allowed.

*Not addressed comment remains. Refer to Volume 1 Table CA 2: Standard 6.*

As noted a waiver from the Town of Weston Stormwater Bylaw has been requested. Although the Response claims that there would be state and federal oversight of the project under NPDES MS4 Regulations that is incorrect, the MS4 Regulations apply to

the Town's stormwater system not this private development project. By working outside of the wetland buffer and riverfront area no filing with DEP would be required and there would be no DEP oversight of stormwater issues.

The project has been reviewed below under each DEP standard for all issues, with emphasis where a particular BMP is listed as not allowed in the Zone A of a surface water supply. The WSR requires the Professional Engineer to Certify that the Stormwater Management Plan conforms to the WSR. As the use proposed would not be allowed under the WSR because it does not conform to DEP requirements, a Professional Engineer could not provide the required Certification.

*Not addressed comment remains. As the WSR requires a Professional Engineers Certification and the DEP Standards would not allow the system in a Zone A, a Professional Engineer would not be able to ethically provide the Certification.*

Not addressed comment remains. As the WSR requires a Professional Engineers Certification and the DEP Standards would not allow the system in a Zone A, a Professional Engineer would not be able to ethically provide the Certification.

### **Standard 1 – Untreated Stormwater**

In sufficient data to satisfy Standard 1 has been provided.

To demonstrate compliance with Standard 1, it is required that a project shall treat runoff from impervious areas prior to discharge and to demonstrate that the proposed outlets would be stable and diffuse flow such that erosion does not occur at the outlet.

One new outlet is proposed. Other areas would flow overland to either Boston Post Road or Sibley Road.

Although outlet protection sizing data was found in the Report, the proposed discharge is to a paved driveway with sections at over a 12% slope, which would concentrate runoff discharged from the pipe. This remnant section of driveway is located at the east side of the site and intersects with Sibley Road approximately 20 feet west of the existing catch basin in Sibley Road. My site visit confirmed that sediment currently collects at the end of the driveway and a pipe outlet to this section of pavement would contribute to additional loading to the catch basin and treatment unit. This section of driveway serves no useful purpose but appears to be left to avoid work in the Riverfront. A detail of the outlet with complete grading, spot grades, etc. should be provided. This design would likely result in scour along the existing driveway, that is indicated to remain, and would impact the Town catch basin in Sibley Road.

*This aspect of the design has been revised. It is now proposed to have a retaining wall tub constructed around a perforated outlet pipe contained within a stepped gabion wall. There is a detail on Sheet D-4 of the retaining wall. This wall as noted would form a tub to hold water up to the sill elevation of 99 along the southeast side of the tub. It is not good or standard practice to retain water behind a retaining wall like this as it imparts loads to the wall that could damage the wall, in particular in winter when the retained water freezes. At a minimum a Structural Engineer should certify the design. In*

*addition, the grading indicated at the bottom of the wall along the level sill is inconsistent with existing grades and no proposed grades are indicated. It appears that some rock fill is proposed along the wall but the details do not indicate any rock fill. The existing grades below the proposed system would direct flow from this outlet back into the remainder of the existing access road to the catch basin in Sibley Road.*

Above comment remains; the same configuration for the outlet is proposed as discussed above. The revised plans list a bottom of wall elevation of EL 98 but grading is not indicated and would be required to implement the proposed grades.

The design should consider the requirements of the Weston Regulations relative to the Town's National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Permit (MS4) as discharge to the catch basin, and any increased sediment loading from erosion along the roadway could impact maintenance, etc. The catch basin in Sibley Road discharges to a surface water supply where water quality is critically important.

*The revised design would reduce erosion and sedimentation compared to the initial submission but the model does not accurately reflect the flow of runoff from the site, or the impact of flow over the lip of the retaining wall. Typically a level overflow sill is placed even with final grades not a drop as proposed in this case. Overflow with a drop would increase the velocity of the water as it falls and could result in erosion or scour at the bottom of the wall.*

The revised design would reduce erosion and sedimentation compared to the initial submission but the model does not accurately reflect the flow of runoff from the site, or the impact of flow over the lip of the retaining wall. Typically a level overflow sill is placed even with final grades not a drop as proposed in this case. Overflow with a drop would increase the velocity of the water as it falls and could result in erosion or scour at the bottom of the wall. In addition, runoff water that discharges from the level spreader would concentrate along the edge of the remainder of pavement on-site and flow into Sibley Road basin on the topography. As noted above there are also inconsistencies in proposed topography.

## **Standard 2 – Post Development Peak Discharge Rates**

Data submitted to demonstrate that Standard 2 would be satisfied is insufficient to demonstrate compliance.

*The revised plan does not satisfy Standard 2 because there are errors in the runoff model and assuming infiltration and groundwater separation in the calculations has not been supported by testing or other documentation.*

The revised plan would still not comply with Standard 2 as there are errors in the model as noted below and the proposed BMP's would not be allowed in the Zone A of a Surface Water Supply.

*Prior comments are addressed below.*

Prior comments are addressed below.



Standard 2 requires an Applicant to demonstrate that the development does not result in an increase in the rate of runoff from the site and that the development will not result in flooding on or offsite. Evaluation of runoff is prepared for specific control points where runoff would concentrate or reach a specific resource area or existing stream or culvert. Under the WSR there are specific requirements for rainfall assumptions and a requirement to reduce both peak runoff rates and total runoff volume. Rainfall used in the stormwater model is consistent with Weston Regulations.

### Existing Conditions:

It is unclear why in the existing case the flow to the existing Sibley Road catch basin is different than in the proposed case, in particular as the proposed case uses data reportedly prepared by the Town of Weston in 2014 and this condition would not have been altered in the pre-construction case. Other than the Sibley Road off site area there are a few inconsistencies with Subarea divides and the Time of Concentration maybe underestimated in area E3. A longer hydraulic time would occur flowing southerly from the saddle between high points as the initial section is much flatter. Other than the above issues the calculations are reasonable subject to confirmation of soil conditions.

*The Existing Conditions model is not changed as noted above there were some minor issues with the model.*

The Existing Conditions model is not changed as noted above there were some minor issues with the model; in particular the analysis of Sibley Road is not consistent with the proposed conditions analysis.

### Proposed Conditions:

*The revised plan now proposes to infiltrate a percentage of the runoff into the underlying ledge to reduce the peak runoff rates. The DEP Handbook Volume 3 Chapter 1 addresses determining compliance with the Stormwater Regulations. The proposed stormwater drainage design does not comply with Standard 2 for the following reasons:*

This submittal reverts back to a subsurface detention system without infiltration. Some of the prior comments below do not apply to the revised design; I have added comments where appropriate.

1. *The stormwater drainage system design proposes to provide both peak rate controls and recharge. For systems of this type a 4 foot vertical separation from groundwater is required or a mounding analysis performed that demonstrates that the mound does not reach the base of the system. Neither has been provided, the groundwater is labeled as TBD (to be determined). As this is a critical aspect of the design it should be determined prior to any Town approval. The design proposes to excavate the ledge to provide separation between the bottom of the system and the ledge. The elevation should be based on preconstruction elevations of the ledge consistent with Volume 3 of the Stormwater Handbook.*

No longer applicable.

2. Recharge is based on the **native soil permeability**; refer to the DEP Handbook Volume 3 Chapter 1. Fill material is not suitable for determining infiltration rates. Ledge is **not** suitable for stormwater drainage infiltration purposes as it is not **soil**. The calculations should not include any infiltration component.  
No longer applicable.
  
3. The latest proposal, to "over blast" the ledge (meaning that ledge will be blasted to create cracks and left in place) in the hope that runoff will drain out through the [over blasted] ledge to an unknown location, is not consistent with the regulations which require separation from ledge, standard engineering practice or common sense. Typically, ledge areas that have been blasted or excavated hold water. One only needs to go to an abandoned quarry to see how water is retained in these excavations. To base an entire project on this premise is irresponsible and should not be allowed, particularly in a sensitive location in the Zone A of a Public Surface Water Supply.  
No longer applicable.
  
4. The data submitted indicates that it may not work as proposed and an alternative would have to be developed. It is important to understand where stormwater runoff will go and the impact of this discharge on the subject property and on area property owners and Sibley Road and the Cambridge Reservoir. The Town should not be expected to approve a plan that the design engineer has stated on page 7 of the Report that it may need to be redesigned as insufficient data is available. Soil testing can be performed at the required depth at this time. If ledge is present at the depth and location of the proposed system, clearly the site would not meet the requirements for infiltration.  
No longer applicable.
  
5. The model routing is incorrect as outflow from the proposed subsurface pipe system would still flow into the remaining section of driveway and into Sibley Road based on the existing contours indicated on the grading plans. The model should be revised to reflect the site grades and assess the impact at the catch basin in Sibley Road.  
This comment would still apply as the outlet design is the same and flow would follow the remaining section of the paved driveway or along the edge based on the grading on the plans.

As noted under General Design Issues, no soil testing has been done, as is standard practice and required under the WSR and also under DEP requirements for specific Best Management Practices (BMP's) as described in Volume 2 of the Stormwater Handbook. This testing should be done.

*As noted already above, some borings in the already altered area of the site were performed, but the required and necessary soil evaluations were not performed as required.*

Refer to other comments on soil testing.

Stormwater runoff design is based on data from published soils reports and on-site testing. Published soil reports have been prepared using both mapping and excavation of test pits approximately 5 feet deep over the entire state. This data is used to classify soils into Hydrologic Soil Groups (HSG). HSG A soils are the most rapidly draining, typically sands, and HSG D soils are of very low permeability, typically dense silts and clay or wetland areas that are normally inundated with water. Soils are assigned a runoff curve number (CN) based on a several factors including underlying soils capacity to absorb water (i.e. HSG A soils have a lower CN than HSG D other factors being the same) vegetative cover and the condition of the vegetation. A forest for example absorbs more rainfall than a maintained lawn. In this case the proposed design proposes to excavate nearly all native soil with the exception of the area within the Riverfront and small areas adjacent to Boston Post Road and Sibley Road. By removing all of the pervious soil, as proposed, to the underlying ledge which is considered nearly impervious, the HSG would be changed and the (CN) would be higher in the proposed reconstructed vegetated areas. A higher runoff coefficient means a higher runoff rate and greater runoff volume for a given area than that with a lower runoff coefficient. More runoff directed to the stormwater detention system and outlet pipe than assumed in the model would result in more outflow and potentially non-compliance with this standard. An increase in the CN would increase the runoff and the system should be designed to reflect the proposed conditions to demonstrate no increase in runoff. As presented this has not been demonstrated.

*Not addressed comment remains. In addition, based on the summary data in the Report there is less area under proposed conditions than under existing conditions. Comparing the watershed plans, the proposed area would be slightly larger. This error should be corrected as it underestimates the proposed runoff.*

Not addressed comment remains. In addition, based on the summary data in the Report there is less total area under proposed conditions than under existing conditions. Comparing the watershed plans, the proposed area should be slightly larger. This error should be corrected as it underestimates the proposed runoff. The Board could include a condition that the calculations be revised as noted in my initial comment.

The design of the permeable pavers would allow runoff to flow in the stone layers and bypass the catch basins. This flow would weep out at the interface of the pavers with Sibley Road pavement. The runoff model assumes all of the flow from these pavers will enter the catch basins.

*Not addressed comment remains. As noted above more rainfall may flow into the stone around the subsurface pipe and discharge at the outlet depending on the construction details.*

Not addressed comment remains. The proposed design now has an impermeable barrier around the subsurface detention system, no infiltration is proposed. Although the prior system would not function with infiltration based on depth to ledge, it would have directed some or all of the flow absorbed into the paver systems into the stone around the pipe and directed it to the stormwater outlet depending on other fill materials. This design will direct flow to Sibley Road in the soils under the pavers. Runoff water will collect at the low point at the access drives and seep into the gravel base at Sibley Road and overflow into the Sibley Road pavement creating both an icing condition and

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potential roadway damage due to frost. The DEP Handbook detail for this type of system has a subdrain option for excess flow to be directed to a safe outlet. The plans do not include a subdrain.

As noted above under General Design Comments, in most frequently observed storms of less than one-two inches of rainfall, rain will soak into the stone under the grass paver units and follow along the stone interface between the stone and compacted fill, or ledge, to a point where it would weep out to the surface. In very small storms some may soak into the compacted soils and into the trench for the subsurface storm system or along the foundation for the building. Melting snow and frost would also soak into the stone area and follow along the interface between stone and compacted fill or ledge and weep out at the joint between pavement in Sibley road and the pavers.

*The revised design may result in more surface flow going into the stone around the subsurface pipe detention system, depending on the specifics of fill below the grass pavers or permeable pavers in the location of the proposed system. This flow would flow into the pipe perforations and discharge at the proposed outlet. This could reduce weeping into Sibley Road compared to the prior design.*

Not addressed comment remains. The proposed design now has an impermeable barrier around the subsurface detention system, no infiltration is proposed. Although the prior system would not function with infiltration based on depth to ledge, it would have directed any flow absorbed into the grass paver systems into the stone around the pipe and directed it to the stormwater outlet. This design will direct flow to Sibley Road in the soils under the pavers as it will flow into the base gravel under the driveway pavers and then to Sibley Road. Runoff water will collect at the low point at the access drive and seep into the gravel base at Sibley Road and overflow into the Sibley Road pavement creating both an icing condition and potential roadway damage due to frost. The DEP Handbook detail for this type of system has a subdrain option for excess flow to be directed to a safe outlet. The plans do not include a subdrain.

Depending on the back fill used for the subsurface system and storm sewer pipes, groundwater would follow the bottom of the pipe trench and breakout at the discharge point creating a new spring in the slope at the outlet pipe discharge. The National Corrugated Steel Pipe Association Installation Manual specifies permeable granular backfill under the pipe, in particular when placed in ledge, which would provide a conduit for water to follow. The proposed subsurface pipe detention system should be specified as leak proof, tested and certified as leak proof, or the volume of infiltration of groundwater included in the calculations.

*The revised design specifies perforated pipes, which would collect groundwater and discharge it through the outlet. This would result in a more constant flow at the outlet. The volume of groundwater flowing into the system should be included in the calculations. A long term constant flow would impact vegetation and result in erosion on steep slopes as present at this location. This flow would end up in Sibley Road based on the site plan contours.*

It is now proposed to have an impermeable barrier around the detention system pipe so there would not be groundwater flow into this system if properly constructed. I

recommend that the Board require inspection of the installation and testing/certification that it is water tight as proposed.

Groundwater that collects along the foundation would collect in the underdrain if located at sufficient depth to collect this water. The blasting required to install the foundation for the building would create a tub to hold groundwater and the discharge location for this groundwater should be accounted for in the analysis. Discharge to Sibley Road would result in icing with associated serious safety concerns, to motorists.

*Not addressed comment remains.*

The plans now propose the wastewater treatment plant to be located in the lower level garage, identified on the plans as EL 104. At this elevation the southeast corner of the building would be in fill. Any groundwater collected under the foundation would either be collected in the UD drains or weep out and flow into Sibley Road at the fill section of the foundation. The plans should clarify where groundwater associated with the foundation is to be discharged. The Board should consider a condition requiring final plan design and calculations for underdrains.

The proposed design relies on a subsurface corrugated metal pipe system with various connections from the roof area and two catch basins and a trench at the access driveways into the parking garages. It is unclear how the roof of the building, which is the major part of the runoff for the system, would connect to the underground pipe on the northerly side and part of the east and west sides of the building. No connections are located in these areas. It appears that the roof is pitched with a ridge at some locations. Design and sizing of this system is critical to the function of the system, as bypass of the roof system would flow directly into Sibley road excepting any runoff that may flow into the trench drain or catch basins. These structures are not sized for flow from the roof. Runoff that bypasses the system would not be controlled and would result in more flow to Sibley Road than listed in the Report.

*Not addressed comment remains.*

The response indicates that the roof drains have not been designed yet and therefore are not indicated. The Board could consider a condition that detailed design of the roof drains, including inlet and pipe flow capacity be provided to demonstrate that the proposed system will convey the 100 year storm, as proposed, to the subsurface detention system.

The proposed grading plan is incomplete and, at places, internally inconsistent. In particular, grades along the southeast side of the site at the edge of the emergency access way are incomplete; and, in the northwest corner, grading and subareas do not coincide.

*There is now a wall proposed for part of this area with the outlet from the storm drainage outlet located in a tub surrounded by retaining walls. The grading is incomplete/inconsistent at the easterly corner of the system and along the southeast side of the pervious paver section. The proposed roadway grades do not tie back to existing grades in this area. In the northwest corner, grading and subareas do not coincide and more runoff would flow to Boston Post Road based on the grading.*

Comment remains, the contours that can be read on the plan indicate a 1:1 or 1.5:1 slope which is not a stable slope next to the southerly access drive. There is an EL 97 contour

missing and an EL 96 contour missing in this area. It would not be feasible to construct the slopes as indicated without encroachment into the Riverfront Area.

### Standard 3 – Recharge to Groundwater

Standard 3 is not satisfied.

*Standard 3 requires recharge to groundwater and is not satisfied.*

No recharge is proposed under the current proposal; this standard would not be satisfied. Insufficient testing to identify areas that may have suitable soils has not been performed.

*The revised plan now proposes to infiltrate some of the runoff into the underlying ledge. The DEP Handbook Volume 3 Chapter 1 has an extensive section regarding how to determine a site's suitability for recharge. This design is not consistent with DEP requirements for the following reasons:*

As no recharge is proposed the italic type comments below no longer apply to the revised submittal.

1. *Recharge is based on the **native soil permeability**. Fill material is not suitable for determining infiltration rates. Ledge is not suitable for infiltration purposes as it is not **soil**. The calculations should not include any infiltration component.*
2. *Ledge is considered impervious for purposes of recharge refer to the DEP Handbook. No recharge system shall be located in soils that infiltrate slower than 0.17 in./hr. Although the Report claims a rate of 0.045 in./hr., no evidence or testing data to justify this claim has been provided.*

*In addition, the infiltration rate used is slower than allowed by DEP for infiltration areas. I note that this rate appears to be selected based on the required time for a system to drain. The calculations provided indicate that the system would drain out in 70.42 hours; however the recharge volume on page 2 of the calculations uses a different volume than page 1 of the calculations (1,629 cubic feet used in page 2 versus 2,438 cubic feet calculated on page 1). Using 2,348 results in over 100 hours to drain which would not comply with DEP Handbook Volume 3 Chapter 1.*

3. *The DEP Handbook includes a flow chart (Attached hereto as Exhibit A) for determining the suitability of soils on a site for recharge purposes. This chart has not been followed by the applicant through all required stages. **Soil testing** is required at specific locations and depths of the proposed stormwater drainage infiltration system. For a stormwater drainage system, such as the one proposed, soil tests for each 50 foot length of the proposed system is required. None of the borings are at the required locations and depths for the proposed system and no soil testing has been provided as required under the DEP handbook Volume 3 Chapter 1.*

Standard 3 requires recharge of runoff to compensate for the increase in impervious area.

No infiltration is proposed. The Report claims that it is not feasible to confirm groundwater and infiltration rates until after the site is regraded due to the proposed changes in topography. The design should be based on the conditions that exist on the site now. Soil testing to confirm groundwater and ledge levels as well as soil classifications for infiltration purposes is a basic element of project design. If there are suitable soils on-site for infiltration, these areas should be protected for that use.

*Infiltration is now proposed, refer to comments above.*

My initial comment above has not been addressed.

As emphasized above, none of these systems would be allowed in the Zone A of a surface water supply.

*Not addressed, comment remains, none of these systems are allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed, comment remains, none of these systems are allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.

#### **Standard 4 – 80% TSS Removal**

Standard 4 is not satisfied.

*Standard 4 is not satisfied.*

Standard 4 requires that runoff be treated to 80% removal of TSS prior to discharge. This entire site is in the Zone A of a surface water supply and is considered a Critical Area and an Outstanding Resource Water (ORW). With the specific exception of stormwater discharges essential to the operation of a public water supply, no discharges are allowed.

*Not addressed comment remains under the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed comment remains under the DEP Handbook Volume 1 Table CA 2: Standard 6.

A listing of the treatment BMP's proposed and their removal rating follows.

Deep sump catch basins: Deep sump catch basins are credited with 25% removal subject to proper design and sizing. To meet the standard, catch basins should collect no more than 10,890 square feet (1/4 acre) of impervious area. Although roof runoff is considered clean, if the roof discharges directly to pavement that portion should be included in the tributary impervious area calculations. Based on the pavement area alone surface flow to the catch basins would be under the maximum 1/4 acre of impervious. Provided the roof does not flow over pavement to the catch basins these would comply with 25% TSS removal credit.

*No further comment required.*

Proprietary treatment unit: The Report indicates that a "Stormceptor 450i" treatment unit is proposed. More recent correspondence indicates that other options are being considered to remove phosphorus as the types of treatment proposed provide no filtration

or phosphorus removal. Based on a DEP review of proprietary treatment units "Regulatory Review of Non Rated Stormwater Treatment Practices" published in 2013 by DEP, the proposed unit should only be credited between 30% and 75%. It is required to document the effectiveness of the unit with appropriate testing. In this case part of the flow is from the trench drain which provides no TSS removal and the Stormceptor would be the only treatment unit. The DEP Water Quality Volume (WQV) to Flow Rate conversion calculations should be provided for this unit. Subject to proper sizing and details I recommend that the Stormceptor receive a credit of 30% removal based on DEP publications. The allowable removal for proprietary units is at the Commission's discretion. Proprietary units are for pre-treatment; in this case it appears to be the main treatment device. The proposed use of the Stormceptor would not comply with DEP requirements.

*It is now proposed to use a "jellyfish" filter system, which is an insert in a manhole type structure that acts as a filter to treat runoff. I note that the design data available on-line recommends a head of 18". The design would provide a 6 inch invert difference (head), rather than the recommended head of 18 inches. It is unclear that the proposed 6 inch head would be sufficient for proper operation. Volume 2 of the DEP Handbook includes data on proprietary media filters, the filter media in this case is the membrane system. DEP specifies that these systems are suitable for "pre-treatment" in this location as the site is in a critical area. Approval is subject to review under Volume 2 Chapter 4 of the DEP Handbook; however, and, as noted above no BMP's are allowed in the Zone A; and, so, the proposed jellyfish filter system is still a system that would not be allowed in the Zone A under the DEP Handbook Volume 1 Table CA 2: Standard 6 and under 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program..*

Above comment remains.

The calculations use 1" to determine Water Quality Volume as required both under WSR and for a Critical Area.

In this case there are two treatment trains one has catch basins then the proprietary unit, the other is just the proprietary unit and the proposed design would not meet the standard. *This standard possibly could be satisfied if the proposed stormwater drainage system were not in a Critical Area, a Zone A and a Land Use with Higher Potential Pollutant Load, but the proposed stormwater drainage system is in those area and, so, the proposed system is not allowed under Standard 6 or under 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.*

This standard possibly could be satisfied if the proposed stormwater drainage system were not in a Critical Area, a Zone A and a Land Use with Higher Potential Pollutant Load, but the proposed stormwater drainage system is in those area and, so, the proposed system is not allowed under Standard 6 or under 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.



## Standard 5 – Higher Potential Pollutant Loads

Standard 5 is not satisfied.

*Standard 5 is not satisfied.*

The revised submittal recognizes that the project would be a Land Use with Higher Potential Pollution Loads (LUHPPL); however Standard 5 is not satisfied as a wastewater treatment plant is not allowed in a Zone A of a Surface Water Supply.

Standard 5 specifies uses that are considered a Land Use with Higher Potential Pollution Loads (LUHPPL). The project would be considered a Land Use with Higher Potential Pollution Loads (LUHPPL) as a **wastewater treatment facility** is proposed at the site. In addition, storage of sludge, etc. is listed in the wastewater treatment process description as part of the process. Storage of sludge is also considered a LUHPPL. A wastewater treatment plant is not allowed in the Zone A of a Surface Water Supply.

*Not addressed comment remains refer to 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.*

Not addressed comment remains refer to 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.

The project definitely is an LUHPPL and the Report erroneously states that the project is not a LUHPPL.

*Not addressed comment remains that the project is a LUHPPL.*

The revised submittal recognizes that the project would be a LUHPPL.

This Standard has not been met by the project and is not allowed in this location due to DEP requirements for protection of Public Surface Water Supplies.

*Not addressed comment remains refer to 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.*

Not addressed comment remains refer to 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply the response ignores this critical fact.

## Standard 6 – Protection of Critical Areas

Standard 6 is not satisfied.

Standard 6 requires specific protections and uses of specific BMP's in Critical Areas.

Based on a review of MassGIS data and information in the submittal and other supplied information, the entire locus is in a critical area, the Zone A of a Surface Water Supply. The Report erroneously states that the project does not discharge near a critical area.

*Not addressed comment remains the entire locus is in the Zone A, a Critical Area and the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed, comment remains the entire locus is in the Zone A, a Critical Area, and the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6. The proposal avoids DEP review by staying outside of the Riverfront area but remains within the Zone A of a Surface Water Supply and Stormwater BMP's are not allowed in a Zone A.

DEP has determined that several of the proposed uses, a wastewater treatment plant and stormwater BMP's and stormwater discharges in particular, are prohibited in the Zone A of a Surface Water Supply. Under these criteria, approval of the project would be subject to appeal by the City of Cambridge, the owner of the water supply and adjacent land for impacts to the Zone A. DEP requires that Public Surface Water Suppliers shall protect the Zone A of their systems.

*Not addressed comment remains that the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6 and under 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.*

Not addressed comment remains that the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6 and under 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.

The entire project is in a critical area, the Zone A is located a distance of 400 feet from the surface water supply, which is identified by the State as both the reservoir and Stony Brook. The proposed discharge is clearly within 400 feet of the Stony Brook and the Reservoir.

*Not addressed comment remains that the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6 and under 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.*

Not addressed comment remains that the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6 and under 310 CMR 22.20B **no** new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program.

Standard 6 requires that **no stormwater BMP's** can be located in the Zone A.

*Not addressed comment remains the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed comment remains the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.

Standard 6 cannot be met by the project due to risks of contamination to the Public Surface Water Supply, which will include stormwater contaminants and wastewater contaminants.

*Not addressed comment remains the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.*

Not addressed comment remains the project is not allowed under the DEP Handbook Volume 1 Table CA 2: Standard 6.

## **Standard 7 – Redevelopment Projects**

Standard 7 is not applicable.

The site is not a redevelopment project. In order to be a redevelopment project there can be no increase in impervious area. This site has a substantial increase in impervious area. The site is also not a partial redevelopment project as no components of the existing development are proposed to remain except a small area of pavement from the proposed stormwater discharge to Sibley Road. This pavement should be removed as it will exacerbate erosion from the stormwater outlet. This pavement appears to remain not for any useful purpose but to avoid having to file with the Conservation Commission by staying out of the riverfront area. Although the overall project cannot meet DEP requirements, removal of pavement in the riverfront alone could be permitted as a restoration project.

The submittal recognizes that the project would not be a Redevelopment, but the project would not comply with other Standards as noted in this review. The “Site Categorization for Stormwater Regulations” has been revised in this latest submittal to claim that the project is only required to comply to the maximum extent practicable. As a “new” development full compliance is required.

## **Standard 8 – Erosion/Sediment Control**

Standard 8 is not satisfied. WSR 5.0 C. 3. f. is not satisfied.

*No additional data has been provided, this Standard and WSR 5.0 C. 3 would not be satisfied.*

Although the Demolition and Erosion control plan has a revision date, the data required, in particular temporary stormwater runoff controls, etc. have not been added. The plan is essentially the same as initially submitted.

Standard 8 requires that an Erosion and Sedimentation Control plan shall be developed for the site.

In this case a NPDES SWPPP will be required, a draft SWPPP has not been submitted. The plans include a plan labeled “Demolition and Erosion Control Plan”. This plan may be a demolition plan and does indicate a row of silt fence and straw bales around the perimeter of the site but the plan does not meet the requirements under the DEP Handbook or of the WSR. Of particular importance is that temporary runoff controls are

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not indicated. As the site is directly tributary to a surface water supply, this is a critical aspect of the design.

*Not addressed, comment remains.*

Comment remains, in addition to the above comment the proposed sediment barrier is within the limit of proposed construction and would impede construction of the proposed outlet.

The WSR also requires indication of locations where stormwater would discharge during construction. As much of the site naturally slopes to the Public Water Supply Reservoir, sediment discharged during construction would impact the catch basin in Sibley road and any excess sediment would flow to the reservoir. Any unforeseen circumstances, such as a hydraulic fluid leak, fuel spill, etc. would also potentially discharge to the reservoir.

*Not addressed, comment remains.*

Not addressed, comment remains.

### **Standard 9 – Operation and Maintenance Plan**

Standard 9 would be satisfied if the use was allowed in a Zone A.

*Standard 9 would be satisfied if the use was allowed in a Zone A.*

Standard 9 would be satisfied if the use was allowed in a Zone A.

Standard 9 requires a plan for long term Operation and Maintenance (O&M) of stormwater BMP's.

An Operation and Maintenance Plan (O&M) was provided in the Report. The O&M is generally consistent with DEP requirements for long term maintenance; however, the stormwater system itself is not allowed in the Zone A, as emphasized above.

### **Standard 10 Illicit Discharge**

Standard 10 is not satisfied.

*Standard 10 is not satisfied.*

Standard 10 requires a signed illicit discharge statement. An illicit discharge statement is included in the Report, but it has not been signed as required.

*Not addressed, comment remains.*

Not addressed, comment remains.

### **Wastewater Issues:**

There is no public sewer system accessible to the site. 248 CMR 10.00 the Massachusetts Plumbing Code, which applies to all building construction including this project protects health and safety relative to sanitary waste disposal and potable water supply. The proposed wastewater treatment plant would not be allowed in a Zone A under current permitting requirements. There is no provision for an evaporative effluent disposal system so it would not be allowed at this time.

*Not addressed comment remains refer to 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.*

Not addressed comment remains refer to 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply.

The project proposes a unique effluent discharge system, which would consist of using multiple gas fired evaporators to boil off the fluid portion of the effluent generated (up to 25,000 gallons per day at peak flows) and then discharge the fluid that results to the air as steam and collect remaining solids in tanks that then would be truck from the locus to a licensed disposal location. The wastewater would be treated prior to discharge by a Membrane Bioreactor (MBR) wastewater treatment plant. Under Definitions in 310 CMR 12.00 "Operation, Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges" this would be a "Wastewater Treatment Plant".

*Not addressed comment remains.*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use, although their regulations prohibit wastewater treatment plants in the Zone A of a Surface Water Supply. The Board could require that DEP provide written justification for this deviation from their Regulations.

As noted in the Stantec "Conceptual Design Executive Summary for Proposed Wastewater Treatment and Evaporation Facilities dated May 12, 2017, the DEP "Guidelines for the Design, Construction, Operation and Maintenance of Small Sewage Treatment Facilities with land Disposal" (Guidelines) is the accepted guidance for construction of treatment plants of the size and type proposed for this project. Although the final effluent disposal is different than land disposal, the treatment plant should be constructed in compliance with the same criteria as a plant with land disposal of effluent.

*Not addressed comment remains.*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use at this location, if this is the case it is not in compliance with the above Guidelines and it is unclear why DEP would issue such an approval.

Under 310 CMR 22.20B no new treatment or disposal works permitted under 310 CMR 3.00 Surface Water Discharge Program or 310 CMR 5.00 Groundwater Discharge Program will be allowed in the Zone A of a Public Surface Water Supply, so the proposed treatment system is not allowed.

*Not addressed comment remains.*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use at this location, if this is the case it is not in compliance with the above Regulations and it is unclear why DEP would issue such an approval.

The proposed disposal system is a 'treatment works.' The proposed system does not appear to be permitted under either program specifically, but if it were allowed, then certainly the standard location and setback requirements for the Treatment Works aspect of the design should apply and they are not satisfied by the proposed system.

*Not addressed comment remains.*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use at this location, if this is the case it is not in compliance with the above Regulations and Guidelines and it is unclear why DEP would issue such an approval.

A Treatment Works system may not be located in a Zone A as there is risk of contamination of the public water supply. In addition, there are potential health hazards to the occupants of the building to having a wastewater treatment plant inside of a residential building.

*Not addressed comment remains.*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use at this location, if this is the case it is not in compliance with the above Regulations and Guidelines and it is unclear why DEP would issue such an approval.

Under the Guidelines a minimum 50 foot separation is required between a dwelling unit and the treatment plant. There would not be 50 foot of separation from a dwelling unit based on the plans provided. This should be 50 feet of horizontal separation, not vertical separation, but the project would not meet vertical separation either. There is also a required setback of 50 feet from a property line. As the location of the system is not indicated on any plans it is unclear if the treatment plant can meet this setback. The proposed building is closer than 50 feet to the property line, so that requirement cannot be satisfied.

*Not addressed comment remains. (Guidelines Table 2 page 41.)*

The Response indicates that Mass DEP has determined that the proposed wastewater treatment plant is an allowed use at this location, if this is the case it is not in compliance with the above Regulations and Guidelines and it is unclear why DEP would issue such an approval in particular for new construction and not a remediation to improve an existing facility.

The Guidelines also contain specific requirements for the treatment plant building itself including ventilation, chemical storage if necessary, floor drains, etc. It is my understanding that the proposed system would be below grade under the lower level parking area. The plans should identify preliminary features including chimneys for discharge of steam from the evaporators, ventilation, etc. Wastewater treatment plants frequently are a source of odors that should be a consideration in the design.

*Not addressed comment remains. (Guidelines Required Submittals B and C)*

The Response includes some descriptive data and a general location for the wastewater treatment system but no plans of even at a Preliminary level have been provided.

Even if the subterranean treatment plant were to be allowed (despite the fact that it does not satisfy the above itemized requirements), then the Town still should evaluate the impact of the proposed system on public safety generally. The Town should evaluate the following public safety impacts, which are separate and apart from whether the system could obtain a permit to allow it:

- What noise and vibrations would be generated by the treatment plant and how would they impact occupants of the building, including not just the plan itself, but the venting system, whether internal to the building or attached to the outside of the building?
- What type and level of odors would generated by the treatment plant, both within and outside of the building, and how would the odors impact the occupants of the building and occupants of nearby buildings?
- How would the steam generated by the treatment plant impact public safety? The impact on the following elements should be evaluated:
  - Locus sidewalks
  - Locus access points
  - Sibley Road
  - Boston Post Road vehicular conditions
  - Boston Post Road sidewalk conditions (in front of and on either side of 133 Boston Post Road)
  - The sidewalks and paving internal to the office park at 133 Boston Post Road
  - The gas station and convenience store located on Boston Post Road
  - All area driveways
  - The Route 95 interchange that connects to Boston Post Road
  - Route 95.
- What level of moisture, if any, will be generated by the treatment plant within the building for the occupants of the building?
- If there will be vents for the treatment plant that will run through the building, what level of heat will the vents generate and what impact will that heat have on the residential units during the cooling season, both comfort-wise and financially?

*None of the above issues have been addressed, comments remain.*

The Response includes some general description data on the operation of the system relative to the above bullet points, but no similar facilities are cited. No detailed operation or design data has been provided. I recommend that the Board require a list of similar facilities in operation, in particular in the Zone A of a Surface Water Supply with similar climatic and environmental conditions. It does not seem prudent for this very sensitive location to be the test site for this system.

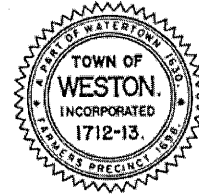
I appreciate the opportunity to assist the Town of Weston on this project and hope that this information is sufficient for your needs. This report is for the Town of Weston Selectmen and land use agencies only and provides no engineering, planning or other advice that may be relied upon by any party or agency other than the Town of Weston. If you have any questions please do not hesitate to contact me.

Very truly yours,

John C. Chessia, P.E.  
Chessia Consulting Services, LLC

JCC/jcc





## TOWN OF WESTON

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PLANNING BOARD  
P.O. BOX 378  
WESTON, MA 02493

TEL: 781-786-5065  
FAX: 781-786-5069

### MEMORANDUM

**DATE:** September 6, 2017  
**TO:** Weston Board of Selectmen  
**CC:** Weston Zoning Board of Appeals (ZBA)  
**FROM:** Weston Planning Board  
**RE:** 104 Boston Post Road - MGL Chapter 40B Comprehensive Permit Application

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The Weston Planning Board was asked by the Board of Selectmen to perform a site analysis of 104 Boston Post Road with the goal of determining a project whose scale, scope and associated impacts could be more readily absorbed by the Town of Weston.

In determining this project size the Board began with consideration of traffic/ vehicular access to the site and septic/wastewater disposal as defining the absolute limits of the project size. These parameters have become critical infrastructure and health and safety questions over the course of the Comprehensive Permit hearings. With these limits fixed, the Board then intended to investigate the more flexible parameters such as site sensitivity, historic aspects, and size and mass.

#### **Traffic and Vehicular Access**

The Zoning Board of Appeals traffic consultant, MDM Transportation Consultants, sent a memo dated August 3, 2017 which points out several deficiencies in the proposed traffic improvements. Notably, there are safety issues with making a left turn from Route 20 into the project. The memo states:

*"The conceptual design does not meet applicable safety-based design criteria including sight lines for vehicles approaching the left-turn lane, lane transition length to allow proper deceleration of vehicles, storage length to accommodate projected peak-hour volumes. Further, the left-turn lane is in direct conflict with Mobil station driveways which have a known and documented history of illegal turning movements (particularly the west driveway) including those noted on the most recently submitted local crash data and collision diagramming submitted by the Applicant.*

*"Proposed access improvements at Sibley Road if not designed to address known operational deficiencies at the Mobil Station (illegal turns) and recognized standards published by MassDOT for high-speed travel on Route 20 presents a serious safety concern (emphasis added) that has a direct bearing on public travel on Route 20 and Sibley Road."*

The memo goes on to state, *"The present concept for Route 20 improvements is seriously deficient relative to safety-based design criteria (sight lines, lane transition and storage lengths, conflict with Mobil Station driveway operations) and we have serious doubt that these design criteria can be met based on constraints imposed by the nearby Route 20/I-95 Interchange."*

MDM has subsequently provided the Planning Board with a conceptual layout of a left turn that would meet published MassDOT safety standards which illustrate these constraints in creating a safe access.

In particular MDM recommends *“Design features that physically restrict left-turn exiting movements from the adjoining Mobil Station property that are in direct conflict with the proposed left turn lane.”*

In consideration of MDM's evaluation, the Planning Board concludes that the safe access for a project of any size beyond what is existing, or nominally larger, **cannot be reasonably accomplished** without consent and approval of adjoining land owners whose properties would be materially impacted by the required roadway widening and pedestrian improvements.

### **Septic and Wastewater Disposal**

The Town of Weston Health Director, Wendy Diotalevi, issued a memo to the ZBA dated December 22, 2016 which described the restrictions of placing any type of wastewater system on the site. Her memo notes that the “site is almost entirely within 400' buffer zone of the Stony Brook Reservoir which is a surface water supply for the City of Cambridge,” and that “Both Title V of the State Environmental Code 310 CMR 15.211 and the Ground Water Discharge Permit Program (GWDPP), 314 CMR 5.06 (1c) require all discharges, conveyance structures and tankage to be outside the 400' buffer zone of a Zone A surface water supply.”

Ms. Diotalevi also provided a copy of both the 248 CMR 10.00: Uniform Plumbing Code which states *“suitable provisions shall be made for disposing of the sewage in compliance with 248 CMR 3.00 and 310 CMR 15.00”* and 105 CMR MINIMUM STANDARDS OF FITNESS FOR HUMAN HABITATION (STATE SANITARY CODE, CHAPTER II) 410.300 which states, *“The owner shall provide, for each dwelling, a sanitary drainage system connected to the public sewerage system, provided, that if, because of distance or ground conditions, connection to a public sewerage system is not practicable, the owner shall provide, and shall maintain in a sanitary condition, a means of sewage disposal which is in compliance with 310 CMR 15.00: Subsurface Disposal of Sanitary Sewage (Title V).”*

The applicant's wastewater system is thus regulated by Title 5 of the State Environmental Code 310 CMR 15.211 and prohibited within the 400' buffer of the Zone A water supply.

It cannot be overemphasized that these restrictions are in place to protect drinking water. There is no more critical resource than this.

In an email dated 8/29/17, Ms. Diotalevi stated that the applicant could build a residential project which has no more impact than the current use, which amounts to approximately six bedrooms. Any larger or expanded system would be prohibited.

With these restrictions, the Planning Board again concludes that the any project beyond what already exists **cannot be provided with a compliant means of disposing sewage.**

In summary the following public health and safety concerns preclude any sizable project; 1) access to the site through a design that does not meet minimum standards in an already complicated and dangerous intersection; and 2) the lack of a permissible septic system that would not endanger a drinking water supply. As such the Planning Board cannot continue further analysis of the site as there is no building to consider.

The Planning Board, therefore, urges denial of the project as the applicant has not proposed a project that is permissible under Massachusetts state standards; and further, the project as proposed has been evaluated to present public health and safety risks by both the Zoning Board of Appeals' consultant and the town's Public Health Director. The documented local concerns of health and safety should outweigh the need for housing.

**Gaumond, Leon**

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**From:** Aiu, Imaikalani <aiu.i@westonmass.org>  
**Sent:** Thursday, September 7, 2017 4:42 PM  
**To:** VanderClock, Donna  
**Cc:** Stockman, Noreen; Gillespie, Doug  
**Subject:** 104 Boston Post Road  
**Attachments:** Memo -Site Analysis.pdf

Good Day Donna

The Planning Board approved the attached memo regarding site analysis for 104 Boston Post Road at the September 6 meeting. If you have any follow up questions or would like me to present this to the Board please let me know.

Sincerely,

Imaikalani P. Aiu  
*Town Planner*  
*Town of Weston*  
781-786-5065

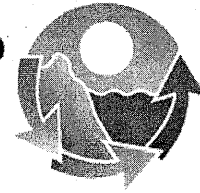
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# Horsley Witten Group

*Sustainable Environmental Solutions*

90 Route 6A • Unit 1 • Sandwich, MA 02563  
508-833-6600 • horsleywitten.com



September 6, 2017

Winifred I. Li, Chair  
Zoning Board of Appeals  
Town of Weston  
11 Town House Road  
P.O. Box 378  
Weston, MA 02493

RE: 104 Boston Post Road 40B Project

Dear Ms. Li:

Horsley Witten Group, Inc. has been retained by the Town of Weston to review the above referenced project and more specifically to assess the water resources impacts associated with the project. To conduct this work we have reviewed the following documents:

- Allen & Major Associates, Inc., 40B Residential Housing Development 104 Boston Post Road, Weston, MA, Drainage Report, April 18, 2017
- Allen & Major Associates, Inc., Site Development Plans for Stony Brook Weston 104 Boston Post Road, Weston, MA, Revised July 28, 2017
- Town of Weston, Stormwater & Erosion Control Regulations, March 14, 2012
- Town of Weston, Article XXVII. Stormwater and Erosion Control Bylaw, (undated)

I have thirty years of experience as a consulting hydrologist working for government, nonprofit, and private organizations throughout the United States and abroad. As a consultant to the U.S. Environmental Protection Agency I have developed Source Water (Drinking Water) Protection Guidance documents and provided related training in 43 states nationwide. I also serve on the Massachusetts DEP Stormwater Advisory Committee and have been integrally involved in the development of the Massachusetts Stormwater Standards. I also assisted in the preparation of the Massachusetts Smart Growth and Smart Energy Toolkit. I serve as an adjunct faculty at Tufts University and Harvard Extension School where I teach graduate courses in Water Resources Management, Low Impact Development, and Green Infrastructure.

The proposed project is located in close proximity to the Stony Brook Reservoir (a public drinking water supply for the City of Cambridge), Stony Brook (a perennial

stream), and associated wetland resources areas. The applicant is requesting numerous waivers from local bylaws and regulations designed to protect water resources. The proposed project does not meet several critical requirements designed to protect drinking water supplies including minimum setbacks, lot coverage, impervious surfaces, and stormwater discharges. A detailed response to some of the waivers follows.

**Waiver from Article XXVIII Stormwater and Erosion Control Bylaw, Section VI (MA Stormwater Standard 3).** The Town of Weston has adopted the Massachusetts Stormwater Handbook and Standards within the context of the Stormwater and Erosion Control Bylaw and Regulations. This request is to waive the requirement to comply with the Massachusetts Stormwater Standard 3 (Recharge to Groundwater). The waiver request is made "due to the existing soil conditions, a proposed infiltration system that infiltrates the required recharge volume may not be possible". It should be clear that it is the scale of the proposed project that makes compliance with this requirement difficult, not the existing soil conditions. The Massachusetts Stormwater Standard 3 takes into account the type of existing soil and set reasonable requirements for each soil type. Soils are divided into four groups with "A" being the most permeable and requiring the most amount of recharge and "D" being the least permeable and requiring the least amount of recharge. The following table shows the recharge requirements of each soil type.

Hydrologic Group Volume to Recharge (x Total Impervious Area)	
Hydrologic Group	Volume to Recharge x Total Impervious Area
A	0.60 inches of runoff
B	0.35 inches of runoff
C	0.25 inches of runoff
D	0.10 inches of runoff

The Stormwater Drainage Report prepared by Allen & Majors provides a summary of on-site soil conditions. This report indicates that there are 2.262 acres of hydrologic group A and 2.127 acres of C.

Standard 3 requires that predevelopment groundwater recharge rates be maintained. The purpose of Standard 3 is to replenish groundwater supplies and to preserve groundwater baseflow rates to streams, vegetated wetlands, and drinking water supplies. Baseflow provides perennial flow to streams (Stony Brook) and wetlands and supports their critical plant communities between precipitation events and during droughts. Groundwater levels (water table) are dependent upon groundwater recharge rates. If recharge is reduced, water tables and groundwater flow rates will decline correspondingly. Additionally, because this project site is adjacent to a public water supply reservoir the sustainable yield of the drinking water supply is directly dependent

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upon groundwater recharge rates and subsequent subsurface discharge to the reservoir. Groundwater moves very slowly compared to surface water flow and provides storage within the soils that contribute to the reservoir. In this manner the groundwater is an extension of the reservoir and provides additional storage within the subsurface.

Groundwater recharge also provides an important water quality function. Water that infiltrates from the land surface down through the root zone and the underlying unconsolidated soils is filtered and treated on its pathway to the downgradient wetlands, streams and reservoir.

The existing site conditions provide a vegetated surface and underlying unconsolidated surficial materials that provide infiltration of precipitation and recharge of the underlying groundwater system that subsequently provides baseflow to the downgradient wetlands, stream and drinking water reservoir. This recharge process also provides a water quality function as described above. The project proponent proposes to remove virtually all of this vegetated surface and underlying surficial materials, thereby eliminating this important recharge function.

***Waiver from Article XXVIII Stormwater and Erosion Control Bylaw (MA Stormwater Standard 6) – Inadequate Buffer to Drinking Water Source.*** Standard 6 provides protection for critical areas including drinking water supplies and states, “stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply”. Zone A is established as a 400-foot buffer from the bank of the drinking water source.

Whereas this proposed stormwater discharge is unrelated to the operation of the public water supply but rather is designed to service the proposed development it is expressly prohibited.

This 400-foot protective buffer (Zone A) is a widely recognized drinking water protection provision. The Massachusetts Watershed Protection Regulations prohibit stormwater discharges in Zone A Areas as an integral tool to protect the Commonwealth’s drinking water supplies. They state, “Any Alteration, or the Generation, Storage, Disposal or Discharge of Pollutants is prohibited within those portions of the Watershed that lie within 400 feet of the Bank of a Reservoir” (313 CMR 11.04 (3)). While these regulations apply specifically to state drinking water supplies including the Quabbin, Sudbury, and Wachusett reservoirs the law establishes reasonable environmental standards for public water supply protection and further expressly indicates that it does not preempt other municipalities to apply similar regulatory requirements (313 CMR 11.08).

The loss of naturally vegetated buffers and subsequent urbanization of land within critical water resource buffer areas has been widely recognized as a threat to water quality. When naturally vegetated land in these protective buffer zones is converted to

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residential, commercial, industrial, and transportation uses (in sum, developed land), what was once a pollutant sink (i.e., a place that can detain and assimilate many pollutants) becomes a stormwater and pollutant source. Impervious surfaces prevent water from entering the soil and transmit the stormwater runoff downstream towards the water supply source, in a sense, short-circuiting the natural treatment processes associated with an undeveloped buffer zone. This limits or eliminates the time and opportunity for beneficial biological, chemical, and physical processes that naturally filter and protect water quality. Riparian vegetated buffers the last line of defense before overland or shallow subsurface flow enters streams, rivers, wetlands, lakes, and reservoirs are arguably the most important ecosystems in the watershed in relation to water supply protection.

***Waiver from Article XXVIII Stormwater and Erosion Control Bylaw, (Low Impact Development Requirements):*** – The Massachusetts Stormwater Handbook requires that project proponents integrate low impact development (LID) and better site design into their projects. The Massachusetts Stormwater Management Standards state that project proponents “must consider environmentally sensitive site design and low impact development techniques to manage stormwater”. The Massachusetts Smart Growth and Smart Energy Toolkit provide guidance to developers on LID design.

There is no indication that any serious attempts for LID design were made for this project. The Stormwater Drainage Report simply states that, “low impact designs were considered for this project, however, due to site constraints including limited landscape area, are not considered feasible for this project.” I am not certain what the applicant means by “limited landscape area” or how this would prevent an LID design. There is a substantial naturally vegetated buffer in place on the southern portion of the property that could be preserved.

A credible LID approach would identify critical resources on site (including the 400-foot drinking water buffer, steep slopes, hydrologic conditions, wetlands) and would integrate these site constraints into a sensitive site design with appropriate buffers. An LID site design minimizes impervious surfaces and LID stormwater plans integrate vegetated best management practices to manage stormwater such as bioretention systems, vegetated swales, and constructed wetlands and promote infiltration practices to maintain groundwater recharge.

***Waiver from Section VI.D.2 Business B District Dimensional Requirements.***

These zoning dimensional requirements limit the lot coverage to 25%. According to the requested waivers the project will cover over 50% of the lot. Lot coverage and specifically impervious cover is a critical standard with respect to water supply protection. Loss of natural vegetation and impervious surfaces within critical water resources buffer zones are widely recognized as critical water quality protection parameters.

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The Massachusetts Drinking Water Regulations require that land uses be controlled (and impervious surfaces be limited) within Zone A (400-foot buffer) areas. Section 22.20C (2) addresses "Restricted Activities upon Surface Water Sources and Within Protection Zones (including Zone A) and in subsection (l) prohibits "land uses that result in the rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2500 square feet of any lot, whichever is greater". The Massachusetts Watershed Protection Regulations (section 11.04 (3) l, also limit the amount of impervious surface within the critical 400-foot buffer, prohibiting "the rendering impervious of more than 10% of any Lot or 2,500 square feet, whichever is greater;"

***Town of Weston Zoning Bylaw, Aquifer Protection District, Section H (Special Permit Requirements).*** This section of the bylaw (Section H 94)) requires a Special Permit for "Rendering impervious more than fifteen (15) percent of the lot area by structures or paving provided that adequate recharge measures are taken". This requirement is consistent with the requirements of the Massachusetts Drinking Water Regulations that require local regulations to control the amount of impervious cover within critical buffer areas to drinking water supplies.

The Special Permit Procedure section of the bylaw (Section H (6)) requires an," analysis by a registered professional engineer experienced in groundwater evaluation and/or geohydrology, with an evaluation of the proposed use including its probable effects or impact on surface and groundwater quality and quantity, and natural flow patterns of water courses."

Additionally, the Special Permit Findings section of the Bylaw (Section H (7)) requires a finding that the project "will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and will not adversely affect an existing or potential water supply."

***Town of Weston Zoning Bylaw, Aquifer Protection District, Section H (5).*** This portion of the bylaw prohibits, "Any excavation or grading, within 6 feet of the maximum high groundwater table elevation, for any purpose that is not expressly allowed either by right or by special permit shall be prohibited. For the purpose of this section, the term "excavation" shall mean any digging in one area that disturbs more than one cubic yard of material. "

This provision is intended to preserve the natural recharge and filtering functions of surficial geologic materials for the protection of drinking water supplies. Removal of these materials reduces the inherent protections provided and increases the vulnerability of the water supply.

Although the applicant has not determined the water table conditions on the site, two of their borings (B-1 and B-2) indicate that the bedrock surface was found only two feet below existing grade at an elevation of approximately 118 feet. The bedrock surface serves as a low permeability layer that likely supports a seasonal (maximum) water



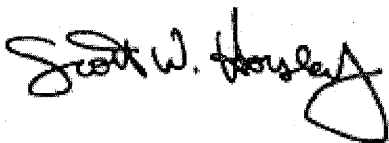
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table. This would suggest that the proposed excavations would be well within the six feet of the maximum high water table.

Conclusions: In summary, the proposed project does not comply with several local and state laws and guidelines that are designed to protect drinking water quality and wetland resource areas. The project does not incorporate better site planning or low impact development (LID) principles. As designed the project poses significant risks to downgradient water resources.

Sincerely,

HORSLEY WITTEN GROUP, INC.

A handwritten signature in black ink, reading "Scott W. Horsley". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

Scott Horsley  
Principal

**Gaumond, Leon**

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**From:** Elizabeth Valenta <evalenta@rhsousing.org>  
**Sent:** Friday, September 1, 2017 8:11 AM  
**To:** Sarah Rhatigan (sarah@trilogylaw.com); ThaliaPrice (naturalbuz@comcast.net); Tom Timko; Doug Gillespie; j cheine; Hugh Jones; Kenneth A.Newberg (knewberg@gmail.com); Shirley Dolins; susan habergmail; 'naturalbuz@aol.com' (naturalbuz@aol.com); Anthony Flynn; Donna; Elizabeth Rust; Leslie Glynn; James Polando; Planning Board Town of Weston  
**Subject:** Re: Weston Affordable Housing Trust Meeting - Thursday 9/7 - 7:00 p.m  
**Attachments:** HTagenda 7SEPT17 final.docx; Weston Small Grant Program Application -8.30.17 final.pdf

Hello Trustees -

Please see attached meeting agenda for next week's meeting.

I also wanted to let you know that the Home Repair Grant has been officially released. Applications were mailed out on Wednesday to eligible households, I attached the final flier and application packet.

Please let me know if you will not be able to attend the meeting and if you have any questions.

Have a great Holiday weekend.

Liz

On Wed, Aug 30, 2017 at 12:09 PM, Elizabeth Valenta <evalenta@rhsousing.org> wrote:

Hello Everyone -

Please see below for the next Housing Trust meeting and other notes:

**Housing Trust Meeting** - next meeting is scheduled for Thursday, September 7, 2017 at 7:00 p.m. - Please let me know if you will be unable to attend. Agenda to follow:

**Other meetings of interest:**

- MHP Affordable Housing Training - September 22, 2017. Follow this link for more information and to register. <http://www.mhp.net/community/events>
- Planning Board Meeting - Wednesday September 6, 2017 @ 7:30 pm. 104 Boston Post Road Site Analysis.
- ZBA Hearing - Monday September 11, 2017 @ 7:00 pm -Boston Properties Project
- Planning Board Public Hearing - September 20, 2017 @ 7:30 p.m - Boston Properties Project.

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Developer has set up a website for public information and  
comment <https://courbanize.com/projects/133-boston-post-road/information>

Town Website for the project can be found here - <http://www.weston.org/1208/Current-Proposals>

- Wednesday, October 4<sup>th</sup>, 7:30 p.m. - Wayland Housing Trust has asked if Weston HT members could come to their meeting to talk about the projects the Trust is working on. Sarah will provide more information at the next meeting.

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Elizabeth Valenta  
Regional Housing Service Office  
141 Keyes Road  
Concord MA 01742  
Email: [evalenta@RHSOhousing.org](mailto:evalenta@RHSOhousing.org)

Office Phone: [978-287-1090](tel:978-287-1090)

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Elizabeth Valenta  
Regional Housing Service Office  
141 Keyes Road  
Concord MA 01742  
Email: [evalenta@RHSOhousing.org](mailto:evalenta@RHSOhousing.org)

Office Phone: 978-287-1090